Children's Advocate Office

2008 ANNUAL REPORT

SASKATCHEWAN
children's advocate
OFFICE

A Voice for Youth

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children's advocate
OFFICE
A Voice for Youth

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SASKATCHEWAN

Letter of Transmittal

November 27, 2009

Mr. Gregory A. Putz
Clerk of the Legislative Assembly
239 Legislative Building
Regina SK S4S 0B3

Dear Mr. Putz:

In accordance with *The Ombudsman and Children's Advocate Act*, it is my privilege to submit to you, and to the members of the Legislative Assembly, my fourth *Annual Report* as Saskatchewan Children's Advocate. The report will be tabled by the Speaker on Thursday, December 3, 2009. Delivery of 95 copies will be made to your office by Printwest on the afternoon of Wednesday, December 2, 2009.

Respectfully submitted,

Marvin M. Bernstein

Marvin M. Bernstein, B.A., J.D., LL.M. (ADR)
Children's Advocate
Province of Saskatchewan

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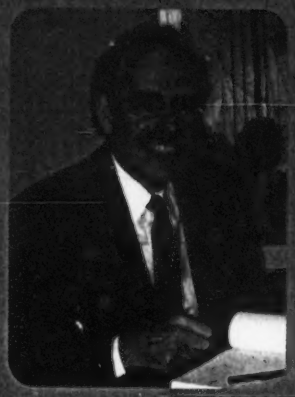
Commentary

Putting *Children and Youth First* in Saskatchewan



Marvin Bernstein, B.A., J.D., LL.M. (ADR)
Saskatchewan Children's Advocate

In 2008, the Children's Advocate Office officially proposed, to the newly formed Government of Saskatchewan, several steps that we felt were foundational to putting *Children and Youth First* in the province. Foremost among these were the adoption of the Office's *Children and Youth First* Principles government-wide, and the call for all child-serving ministries to incorporate these Principles into both proposed and existing legislation, policy, and practice applicable to children and youth in receipt of government services.

Throughout the year, much of the Office's systemic advocacy involved advancing these *Children and Youth First* Principles, along with the idea that the Government of Saskatchewan requires a well-articulated vision and action plan to guide the integrated implementation of the Principles across all child-serving ministries. In daily advocacy cases involving individual and groups of children, we continued to observe the very real impacts of the lack of such a vision and action plan, as well as the dominant family-centred (as distinct from child-centred) focus of existing child welfare legislation.

These experiences were reinforced by the continuing work of the Office's investigations unit on individual child death and critical injury reviews, a fairness investigation that found the Ministry of Social Services did not adhere to or implement court orders, and the larger systemic issue investigation into foster home overcrowding in the Saskatoon Service Centre.

The *Children and Youth First* Principles, Child-Serving Ministry Implementation Plans, and the Child Welfare Review

It would be fair to characterize the year 2008 as a time when the Children's Advocate Office laid the groundwork for some serious and significant decisions subsequently made by the Government of Saskatchewan and its child-serving ministries in 2009. That includes

the announcement of the adoption of the *Children and Youth First* Principles in February 2009; a significant investment in expanding residential resources and foster home capacity in the 2009-10 budget; and the announcement in November 2009 that a 'landmark' independent provincial child welfare review would be initiated in 2010.

At this stage, the Government of Saskatchewan has not released the terms of reference for this review of child welfare in Saskatchewan. However, we at the Children's Advocate Office see this as the first important opportunity for the provincial government to implement the *Children and Youth First* Principles by making them the guiding principles for the work of the review panel. This could be the first step to developing the broader vision and action plan that would actualize the previous commitment of the provincial government to ensure that,

> *"These principles will act as a guide in examining policy and legislation and in developing and implementing both policy and legislative changes."*[1]

That commitment was subsequently reinforced by the Premier, who stated that,

> *"Our government is committed to providing children within our province, and specifically those within the care of the Ministry of Social Services, with the security and opportunities they rightfully deserve. The well-being of Saskatchewan children and youth is paramount to this government, and as a result, we were pleased to adopt the 'Children and Youth First' Principles."*[2]

The Government of Saskatchewan's adoption of the *Children and Youth First* Principles was a significant milestone for the children and youth of Saskatchewan. Now is the time for the provincial government to take the logical next step — which is to translate these 'paper rights' of children and youth into actual 'lived rights.' Developing a *Children and Youth First* implementation vision and action plan, with each child-serving ministry (i.e., Social Services, Corrections, Public Safety and Policing, Health, Education, and Justice) having its own clear and individualized implementation plan as to how to incorporate these Principles into policy, practice and legislation, and by ensuring that the child welfare review is guided by the *Children and Youth First* Principles, would go a long way to doing so. In this regard, it is important to keep in mind that the Principles are based on those provisions contained in the United Nations *Convention on the Rights of the Child*, deemed most critical to the well-being of Saskatchewan children and youth.

The application of the *Children and Youth First* Principles to the child welfare review would also underscore the importance of child and youth participation in this process. The Government of Saskatchewan has the unique opportunity to facilitate that participation, by ensuring that the independent panel running the review specifically listens to the experiences and opinions of children and youth, and meaningfully involve them in the process. They should become active citizens and stakeholders in this review process and their voices are critical, as experiential youth are the 'experts' when it comes to observing and recounting the impacts of government services upon their daily lives and their futures. While we recognize that child and youth participation must occur in a manner that is appropriate to the age and maturity of the child or youth, the Children's Advocate Office would encourage the panel to consider the views of children and youth, and to use that information to draw informed conclusions that are in the best interests of all Saskatchewan children and youth.

The Premier's Mandate Letter and References to the Children's Advocate Office

Following the election of a new provincial government in November 2007, the Premier of Saskatchewan, the Honourable Brad Wall, issued mandate letters to each ministry of the provincial government. In the mandate letter sent to the Minister of Social Services, the Honourable Donna Harpauer, the Premier set out "the clear priorities which are to be addressed"[3] by the Minister and the Ministry, including two bullet points related to the responsibilities and authority of the Children's Advocate Office.

After reviewing this mandate letter, I wrote a letter[4] to the Minister, setting out the relevant two bullet points in the mandate letter, followed immediately by my own views:

- *"'Request that the Children's Advocate investigate and report publicly on the quality of care in facilities that deliver care to children at-risk' – I would respectfully respond by stating that while I have this authority, my Office has not been carrying out this function on a wide scale. I would, however, suggest that internal reviews by Ministry officials lack independence and public confidence and we would be prepared to discuss*

targeted investigations by my Office, subject to the allocation of additional funding and resources."

- *"'Provide the Children's Advocate with the authority to undertake random checks of safe houses and other provincially-funded facilities that provide services to children at-risk' – I would respectfully respond by stating that I do not presently have the legislative authority, but that I should, in my view, and this would require proposed amendments [relating to expanded powers upon advocacy and expanded powers to enter the premises of provincially-funded facilities unannounced]. These amendments would allow my Office to enter premises unannounced and obtain a more accurate picture of the level of service delivery, when performing either advocacy or investigation functions."*

As indicated in the Advocacy section of this *Annual Report*, referrals by children and youth living in residential group homes or in young offender facilities continue to concern my Office as these often include allegations that children and youth are inappropriately restrained and/or physically or verbally abused by facility staff or caregivers. Therefore, I would look forward to immediately resuming discussions with the Ministry of Social Services regarding the mandate letter in order to plan for any additional resourcing that may be required to implement any expansion of the responsibilities and authority of the Children's Advocate Office.

Proposing Amendments to *The Ombudsman and Children's Advocate Act*

In consideration of the Premier's mandate letter and the need to amend *The Ombudsman and Children's Advocate Act* to meet the expectations contained therein, the Saskatchewan Ombudsman, Kevin Fenwick, and I discussed any further amendments to the shared legislation governing our two offices we would recommend to the Government of Saskatchewan. During those discussions, each of us came to the conclusion now is the time in the history of the two offices that the statute should be separated into two distinct pieces of legislation that would recognize each of our distinct roles and responsibilities. Once split, the two new pieces of legislation would, at a minimum, retain the statutory authority that each office now enjoys.

Additionally, we each recommended amendments to the two new respective legislations. For the Children's Advocate Office, these included within a new *Act*:

- Recognizing "youth" as a distinct group by defining the term "youth" in the body of the statute and renaming the *Act* as *The Advocate for Children and Youth Act*.
- Recognizing that one of the core functions of the newly titled "Advocate for Children and Youth" is to provide "advocacy services" to children and youth, and providing a definition of "advocacy" in the body of the statute. Currently, the term "advocate" only appears in the title of the legislation, but nowhere else.
- Conferring upon the newly titled "Advocate for Children and Youth" the same powers and authority, when carrying out his or her advocacy function, as he possesses when he performs his investigative function, but without the need to provide prior notice.
- Requiring an agency or service provider to inform children or youth in their care of the existence and role of the Office of the Advocate for Children and Youth and the methods of contacting the Office.
- Requiring an agency or service provider to provide children and youth with private access to a representative of the Office of the Advocate for Children and Youth.
- Specifying that one of the core functions of the Advocate for Children and Youth is to promote the "rights" of children and youth, in addition to the existing language of "interests and well-being of children." The term "rights" does not appear anywhere in our current legislation.
- Requiring a statement of purposes provision that specifies, among other things, that in interpreting and applying *The Advocate for Children and Youth Act*, regard shall be had to the principles set out in the United Nations *Convention on the Rights of the Child*.
- Providing the Advocate for Children and Youth with jurisdiction over local school boards in respect of those children and youth over whom the Advocate already has jurisdiction.

- Allowing the Advocate for Children and Youth to enter the premises of child-serving agencies and service providers unannounced, to perform any functions authorized in the *Act*.
- Clarifying that in addition to providing "advice" to Ministers, the Advocate for Children and Youth shall have the authority "to make recommendations" to Ministers "on any matter relating to the rights, interests or well-being of children and youth."
- Allowing the Advocate for Children and Youth to intervene in a proceeding before a court or tribunal involving children and youth where there are broad systemic or precedent implications.
- Increasing protection from personal liability for the Advocate for Children and Youth and his or her staff to cover acts of omission, as well as of commission.

These proposed amendments were forwarded to the Ministry of Justice and Attorney General at the end of May 2008.

Providing Access to Justice – The Right to be Heard

In January 2008, the Children's Advocate Office announced a new partnership with the Canadian Bar Association's (CBA) Saskatchewan Branch (now Pro Bono Law Saskatchewan) to make access to justice, through pro bono legal representation, available to Saskatchewan children and youth involved in child welfare proceedings. Unlike child welfare legislation in most other Canadian jurisdictions, the current legislation in our province fails to explicitly make children or youth parties to child welfare court proceedings, regardless of age.

Current child welfare legislation in Saskatchewan also fails to stipulate any clear authority for independent child representation to be ordered by the court, or set out any criteria for a court to consider before deciding on the value of such independent representation. The current legislation further creates unequal treatment because of the lack of uniform jurisdiction in all courts across the province to order such legal representation.

The pro bono program is viewed by the Children's Advocate Office and Pro Bono Law Saskatchewan as only an interim step until the Government of Saskatchewan amends current child welfare legislation to allow children and youth to access independent legal representation in court proceedings that directly affect them. The program was set up due, in large part, to the advocacy cases that had come to the Office during the past several years, where children and youth stated that their voices were not duly considered within the court process in child welfare proceedings in Saskatchewan.

In the first year of the program (2008), 41 referrals for independent legal representation were made, with the majority, 36, from Saskatoon. Three referrals were from the Southwest Region of the Ministry of Social Services and two originated in the Northeast Region.[5] The primary referral source in 2008 was counsel for the Ministry of Social Services.

The need for a legislated framework that will support a formalized, structured, and funded counsel program for children and youth in Saskatchewan is evident. The current approach does not provide a long-term or sustainable solution. Although pro bono counsel are giving significant amounts of time to ensure that children and youth have access to legal representation, a pro bono program, by its inherent nature, will never be able to meet the existing demand for legal services.

There are currently four forms of discrimination and unequal treatment under the law being experienced by Saskatchewan children and youth involved in child welfare court proceedings with respect to legal representation:

- They are prohibited from being treated as parties, unlike all other significant participants, even though the proceeding is specifically focused on their protection needs and best interests.
- Only those children and youth residing in geographical regions where their cases are being decided in the Court of Queen's Bench (e.g., Regina, Saskatoon, Prince Albert) are jurisdictionally eligible for legal representation because the child welfare legislation is silent on the issue of legal representation and the provincial court is limited to its explicit legislative authority.
- There is a marked disparity in the number of referrals being received from Regina, Saskatoon and Prince Albert. A subjective element is operating and children and youth in Regina are not receiving the same benefit as the children and youth residing in Saskatoon, even though they all function as Courts of Queen's Bench. This is occurring because the child welfare legislation

(Left to right) Marvin Bernstein, Children's Advocate, signs an Interim Protocol Agreement with Kevin Musqua, Board Chair, Wi Ci Ti Zon Group Home, and Philip Quewezance, Chief, Keeseekoose First Nation on June 17, 2008.

contains no specific criteria for all courts to consider and apply objectively before making a decision as to independent legal representation.

- Children and youth are not receiving the benefit of a fully resourced child representation program, which is properly funded and supported by ongoing training, evaluation and oversight. In recent months, a number of referrals have been declined due the pro bono program reaching capacity. A formalized, funded counsel program would eliminate the necessity to decline some referrals, and would encourage representation of children and youth at trial, which is presently onerous or unrealistic for most pro bono counsel.

Currently, the Children's Advocate Office is advocating for a funded program grounded in immediate amendments to *The Child and Family Services Act* as demand for this service outweighs the available pro bono resources. To date, there has been a deferral of consideration of the Office's proposed child representation amendments to *The Child and Family Services Act*, pending completion of the child welfare review, with no indication that there will be any funding for a provincially supported program in the foreseeable future.

We have recently taken the position that these 'purely procedural' amendments should be fast-tracked, given the success of the pro bono program over the past 22 months and the risk that a segment of children and youth may suffer harm without such representation being universally available for an inordinate period of time.

Cases like the five Taylor[6] siblings, described in the investigation section in this *Annual Report* on page 25, and those children and youth living at heightened risk of physical, sexual and emotional harm in overcrowded foster homes, are examples where a provincially resourced child and youth independent legal representation program would be highly beneficial.

Building Relationships with First Nations

A unique opportunity emerged in 2008 to work with the Keeseekoose First Nation to develop an interim protocol that represented the shared commitments and mutual obligations of the band and the Children's Advocate Office in delivering services to the children and youth residing in the Wi Ci Ti Zon Group Home.

This protocol was developed to facilitate ongoing communications between the staff of the group home and the Children's Advocate Office, and to ensure that the residents of the group home could freely access advocacy services if they so required. While the Office has a statutory obligation to provide — and the children and youth have the right to access — these services, it was important to recognize the cultural and jurisdictional sensitivities and barriers associated with this work.

The resulting protocol, which is the first one in the history of the Office with a First Nations agency or facility, has provided for significantly improved, consistent and transparent communications. This positive result and experience with the Keeseekoose First Nation will inform future discussions with other First Nations leaders and service providers, as we build awareness of the Office's broad mandate to serve the best interests and well-being of all children and youth in Saskatchewan, while at the same time recognizing the serious disadvantages suffered by First Nations children and youth, who constitute approximately 75 per cent of this province's in care child welfare population.

Investigating Foster Home Overcrowding

Throughout 2008, the Children's Advocate Office worked on a systemic investigation into foster home overcrowding in the Ministry of Social Services Saskatoon Service Centre. The issue of foster home overcrowding dates back over two decades, but more recently re-emerged in July 2006 as the Office began to receive complaints from concerned children, youth, foster parents, professionals and citizens. Referrals identified that many children in the care of the Ministry of Community Resources (now Ministry of Social Services) were being placed in overcrowded foster homes in the Saskatoon Service Centre, which was compromising children's safety.

During the next two years, we responded to these concerns by commencing advocacy initiatives to encourage government to take action. Throughout early 2007, the foster home overcrowding issue persisted and reports to the Children's Advocate Office by children, foster parents and professionals continued regarding ongoing concerns. Therefore, the Office initiated a broad systemic investigation that would include policy, legislative, best practices and rights analysis, file audits, foster home visits and interviews with children and youth in foster care, as well as with foster parents.

The preliminary investigation report was provided to the Ministry of Social Services on December 22, 2008, in accordance with *The Ombudsman and Children's Advocate Act*. Subsequently the final report, *A Breach of Trust: An Investigation into Foster Home Overcrowding in the Saskatoon Service Centre*, which included 45 recommendations, was tabled in the Saskatchewan Legislature in February 2009.

Permanency Planning and Adoption – Fairness Investigation

The fairness investigation involving the five Taylor[7] siblings, which is detailed on page 25 of this report, has revealed that the continuum of permanency planning, and adoption in particular, are areas that require focused attention and priority. The legislative, policy and practice issues that have been identified as problematic conspired to create an unacceptable outcome for the three younger siblings.

The dearth of legal training respecting the Department of Community Resources (now Ministry of Social Services) staff's obligations arising out of court orders was found to be a significant factor in the delayed implementation of permanency planning. Further, the concept of children having 'party status,' and the ability to have counsel represent their specific interests, not only in the originating court case, but beyond, may have averted the unreasonable delay in registering the children for adoption and implementing a permanent adoption plan as expeditiously as the Court had ordered. Counsel for these children would also have the authority to follow-up on the Department's implementation of its adoption registration plans and address the delay caused by the appellant agency in perfecting the appeal.

The issue of non-compliance with accountability obligations has been a recurring theme through many of the Children's Advocate Office's previous investigations and reports. Beginning with the *Child Death Review: Karen Rose Quill*,[8] followed by the *Children and Youth in Care Review: LISTEN to Their Voices*,[9] and the more recent *A Breach of Trust: An Investigation Into Foster Home Overcrowding in the Saskatoon Service Centre* Report,[10] there has been an ongoing concern regarding a culture of non-compliance within the Department of Community Resources (now the Ministry of Social Services) that pertains not only to a lack of adherence to policy, but also to legislation and court orders.

The Taylor fairness investigation inevitably leads to the larger question of whether the findings are provincial in scope, or more a function of what was occurring in the Northeast regional office. Comments and information gathered from Department of Community Resources staff, among others, suggest that many of the issues are provincial in scope and, accordingly, there is a need for a broader provincial response to address these concerns at a systemic level.

The findings and recommendations of this fairness investigation are relevant to the Children's Advocate Office's recent foster home overcrowding investigation. In *A Breach of Trust*, we found that 19.3 per cent of the children placed in overcrowded foster homes in the Saskatoon Service Centre were permanent wards and that 18.1 per cent were long-term wards, with approximately 66 per cent of all children placed in overcrowded foster homes in this region being of Aboriginal ancestry.[11] If there is still a general unawareness of the Department of Community Resources policy directive (i.e., prohibiting Aboriginal children from being placed for adoption without consent of the child's Band or relevant First Nations child and family services agency) being struck down as unconstitutional by the Court of Queen's Bench in December 2004, and some child protection workers believe that it is still binding, then that could lead to some First Nations children being made long-term wards instead of permanent wards.

Additionally, given that there are so many permanent wards in overcrowded foster homes waiting to be registered for adoption, there is a serious question as to how many of

(Left to right) Marvin Bernstein, Children's Advocate, joins John Mould, Provincial Child & Youth Advocate – Alberta, Billie Schibler Children's Advocate – Manitoba, Sylvie Godin, Commissioner and Vice President – Quebec at a dinner and meeting of the Canadian Council of the Provincial Child and Youth Advocates (CCPCYA) in April 2008.

these children are not being registered within the mandatory 90-day policy period. If timely adoption registrations did not occur in the face of explicit court orders in a well-publicized case like the Taylor matter, then that raises some doubt as to how quickly other children, in more obscure cases, are being registered and placed for adoption. It is vital that more permanent wards be moved into secure adoptive homes, rather than drifting in foster care.

As well, this investigation found that concurrent permanency planning was not sufficiently addressed in policy — including fostering with a view to adoption. In other words, if a permanent ward can be placed in a foster home where the caregivers are prepared to make a commitment to adopt the child, that placement would mean one less move for a child who may have already suffered multiple placement disruptions. It would also negate the harmful effects of the delay created when a child is not registered and placed for adoption in a timely manner and would likewise reduce the risk of an adoption breakdown, which is more likely when the child is adopted by total strangers.

It is also important to build more safeguards into the adoption process so that First Nations children, who are adopted as permanent wards, are not arbitrarily and absolutely denied ongoing contact with their culture, community and identity. If more First Nations foster parents and prospective adopters come forward, and if additional legislative options are created, which support 'open' and 'custom' adoption, there would be less objection to those adoptions and earlier permanency resolutions for such children.

The lessons learned about fostering and adopting from the Taylor fairness investigation are timely, as Saskatchewan embarks upon its child welfare review and considers legislative amendments to both *The Child and Family Services Act* and *The Adoption Act*.

Looking to the Future

The Children's Advocate Office views the child welfare review as a once in a lifetime opportunity to effect real change and positive outcomes for Saskatchewan's most vulnerable citizens, our children and youth.

In the coming year, we look forward to contributing to the review by making a formal presentation and written submission, and encouraging the review panel to connect with and provide meaningful opportunities for other stakeholders in the child welfare community to have their voices heard — most notably current and former children and youth in care. The importance of this opportunity can not be underestimated. For ultimately, we will be defined and judged as a society by the legacy of how we have shouldered our greatest responsibility, which is to ensure the well-being of our children and to promote respect for their fundamental human rights.

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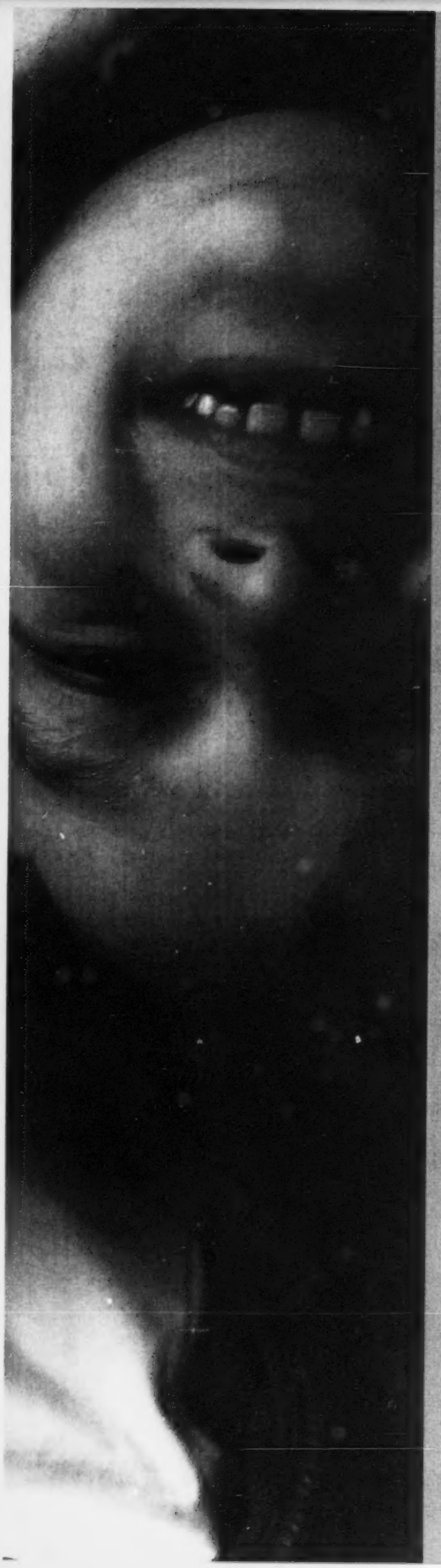
1 Ministry of Social Services News Release, *Putting Children First: Province Takes Action on Child Welfare* at www.gov.sk.ca/news (25 February 2009).
2 Correspondence between Honourable Brad Wall, Premier of Saskatchewan and Marvin Bernstein, Saskatchewan Children's Advocate (17 March 2009).
3 Letter from Premier Brad Wall to Minister Donna Harpauer (21 November 2007).
4 Letter from Marvin Bernstein, Children's Advocate, to Minister Donna Harpauer (5 June 2008).
5 As of October 29, 2009, the Children's Advocate Office had received 76 requests for legal representation since the inception of the pro bono child/youth representation program. Similar to 2008, the vast majority of referrals were from the Centre Region (Saskatoon) at 64, while six referrals came from the Northeast, five came from the South, and one referral originated in the Northwest Region.
6 This is a pseudonym to protect the confidentiality of the children and other family members.
7 Ibid.
8 Saskatchewan Children's Advocate Office, *Child Death Review: Karen Rose Quill*, (Saskatoon: June 1998) at 24.
9 Saskatchewan Children's Advocate Office, *Children and Youth in Care Review: LISTEN to Their Voices*, Final Report (Saskatoon: April 2000).at 126.
10 Saskatchewan Children's Advocate Office, *A Breach of Trust: An Investigation Into Foster Home Overcrowding in the Saskatoon Service Centre* (Saskatoon: February 2009) at 51.
11 Ibid. at 22.



The Children's Advocate Office

Who We Are and What We Do

The Children's Advocate Office is staffed by a team of advocates, investigators, and administrative and communications professionals, who under the leadership of the Children's Advocate work on behalf of the children and youth of Saskatchewan.

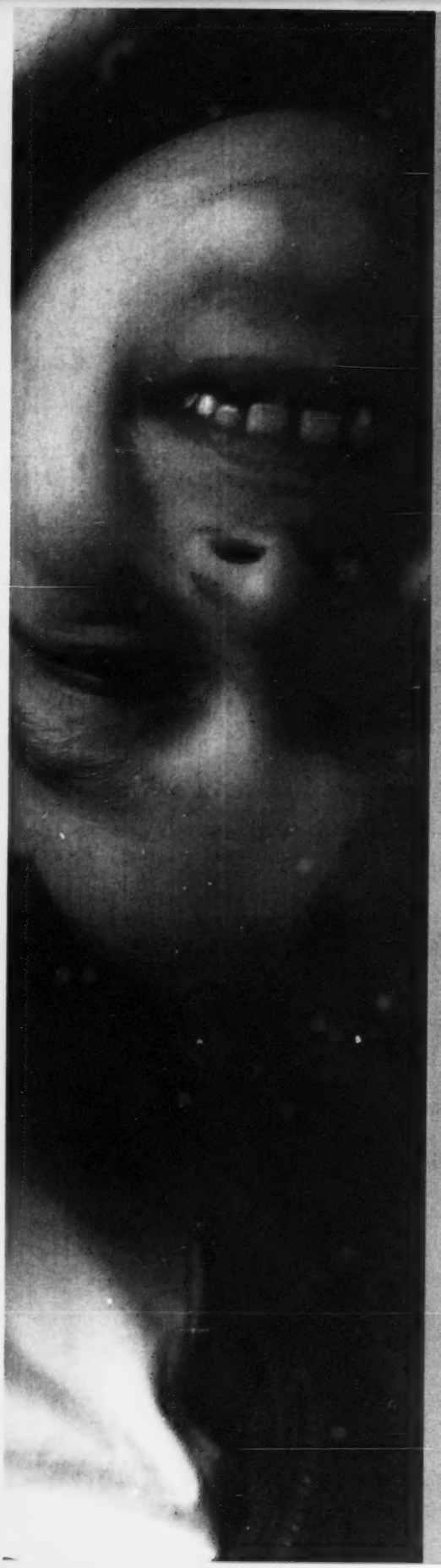
Our vision is that the rights, interests and well-being of children and youth in Saskatchewan are respected and valued in our communities and in government legislation, policy and practice.

Our mandate is derived from unique legislation, *The Ombudsman and Children's Advocate Act*, which designates the Children's Advocate as an independent officer of the Legislative Assembly of Saskatchewan.

While we may conduct research or advise any minister responsible on any matter relating to the rights, interests and well-being of children and youth, our efforts focus on the three main functions of the Office:

- **Advocacy** on behalf of a child or group of children to resolve matters through non-adversarial approaches.
- **Investigations** into any matter concerning a child or group of children, or services to a child or group of children by any government ministry or agency.
- **Public Education** to raise awareness of the rights, interests and well-being of children and youth.

These three functions are all interconnected and support the over arching goal of the Children's Advocate Office, which is to create systemic change for the benefit of the children and youth of Saskatchewan.



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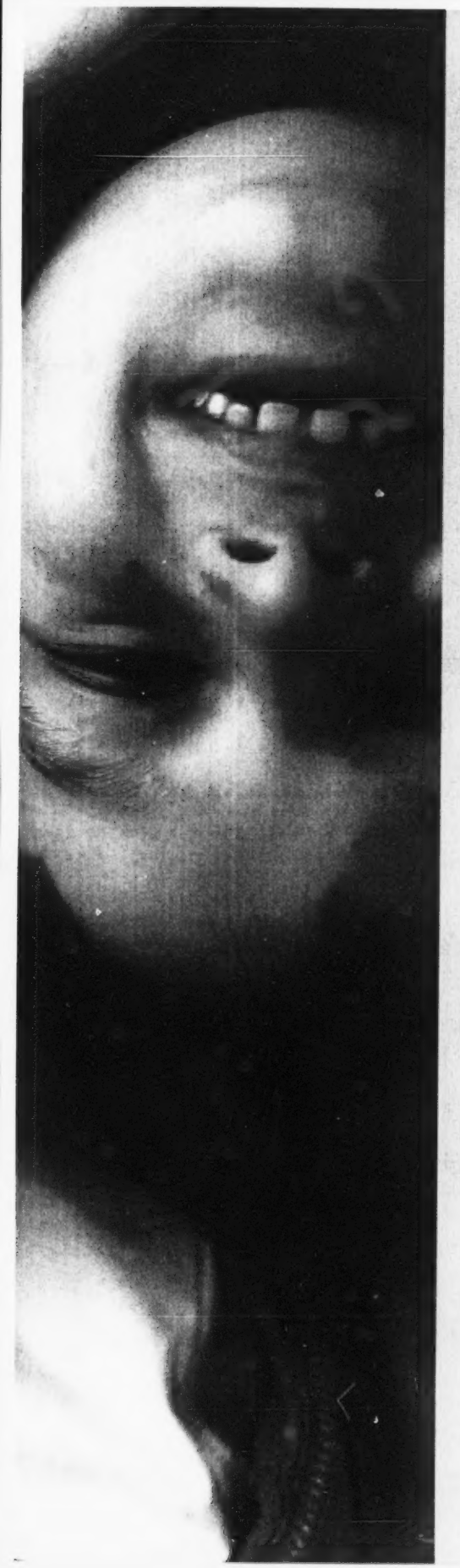

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The Children's Advocate Office

How We Work

Guiding Principles

In 2007, the Children's Advocate Office developed a set of eight Guiding Principles intended to integrate and enhance a *Children and Youth First* commitment within all aspects of our service provision. These principles also reflect the core beliefs and values that we advance in all aspects of our work with government ministries and agencies, as well as with child and youth service and care providers. In response to a recommendation of the Children's Advocate Office, the Government of Saskatchewan adopted these principles in February 2009.

We believe that **all** children and youth in Saskatchewan are entitled to:

- Those rights defined by the United Nations *Convention on the Rights of the Child*.
- Participate and be heard before any decision affecting them is made.
- Have their 'best interests' given paramount consideration in any action or decision involving them.
- An equal standard of care, protection and services.
- The highest standard of health and education possible in order to reach their fullest potential.
- Safety and protection from all forms of physical, emotional and sexual harm, while in the care of parents, governments, legal guardians or any person.
- Be treated as the primary client, and at the centre, of all child-serving systems.
- Have consideration given to the importance of their unique life history and spiritual traditions and practices, in accordance with their stated views and preferences.

Operational Principles

The principles that support the day-to-day operations of the Children's Advocate Office highlight the respect, value and dignity established in the relationship we have with our primary audience — Saskatchewan children and youth. We believe that all people, particularly children and youth, must be treated with respect, recognizing their inherent dignity as human persons.

The Children's Advocate Office will:

- Act in accordance with *The Ombudsman and Children's Advocate Act*.
- Give priority to children and youth in all activities we undertake.
- Deliver services that are respectful, appropriate, accessible, accountable, timely, lawful and consistent, irrespective of the location of the child or youth, circumstances, culture or background.
- Respect the right to privacy of the child or youth, as well as of all other parties involved in the advocacy process.
- Provide services that are consistent with principles of administrative fairness.
- Act in accordance with the Children's Advocate Office Code of Ethics.

Goals and Objectives

The Children's Advocate Office has five over arching goals that represent our vision and mandate. These goals define the types of activities that we will undertake in order to promote and protect the rights of children and youth, and ensure that they receive the level of service they need, and are entitled to, from the Government of Saskatchewan.

The Children's Advocate Office will:

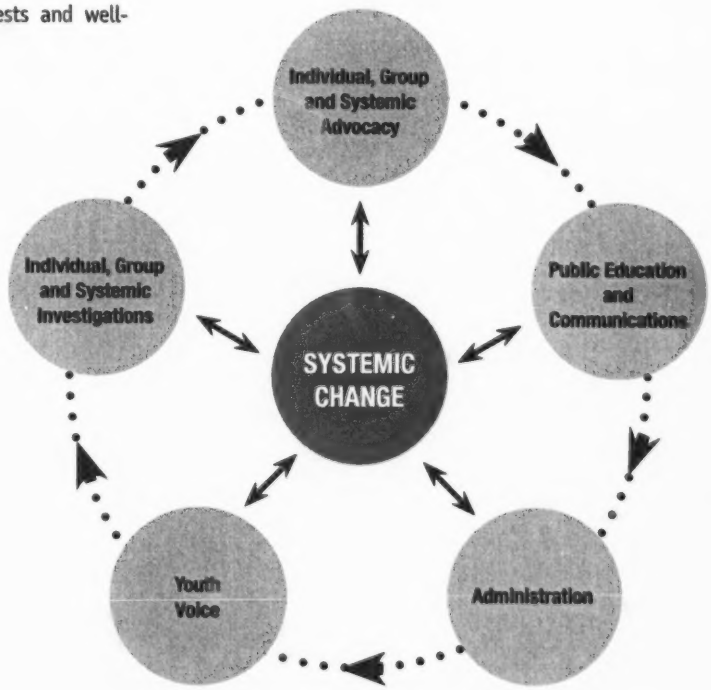
- Advocate for the interests and well-being of children and youth.
- Effect systemic change to promote the interests and well-being of children and youth.
- Promote public accountability through comprehensive investigations.
- Educate the public about the interests and well-being of children and youth.
- Provide high quality service.

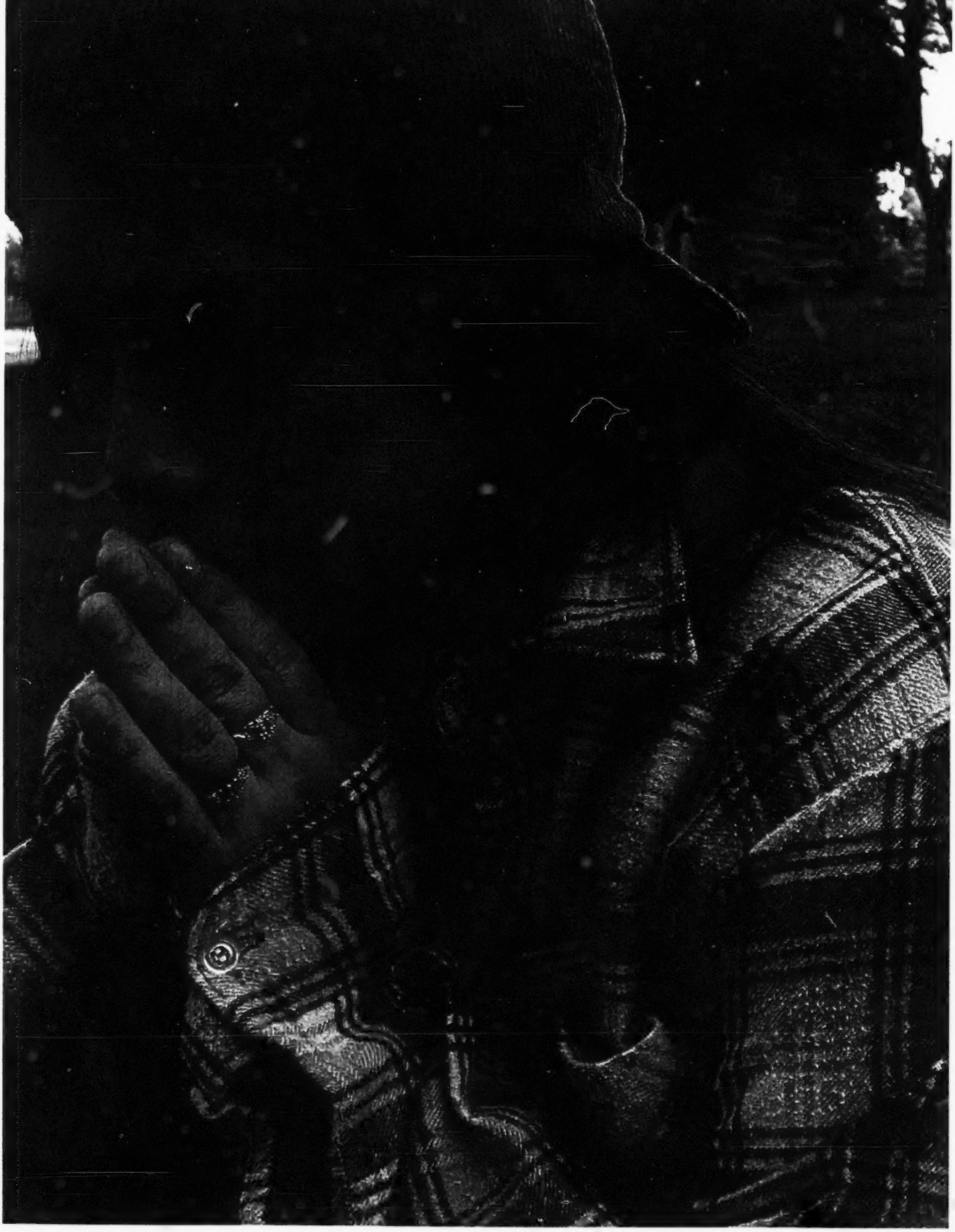
Priority Areas

The activities of the Children's Advocate Office include five key areas that contribute in a significant way to our ability to identify issues, increase awareness of challenges and opportunities, promote systemic change, and advocate with, and on behalf of, children and youth.

The Children's Advocate Office focuses on:

- Individual, group and systemic advocacy
- Individual, group and systemic investigations
- Public education and communications
- Youth voice
- Administration





Advocacy

Who Can Contact the Office and How We Help

Anyone can contact the Children's Advocate Office, particularly a child or youth, if they have a concern about a child or group of children receiving services from a provincial ministry or agency. Children and youth are encouraged to call on their own behalf. However, many parents, foster parents, social workers, health professionals and others also call on behalf of children and youth.

We listen to people's concerns and ask questions to clarify the information. We review the steps the contact source has already taken to resolve the issue or dispute. We might offer information or referrals to other agencies or ministries to assist them in advocating for themselves or on behalf of a child or youth. If appropriate, the issue or dispute will be forwarded to one of the advocates, who will try to make contact with the child or youth concerned.

Advocacy on behalf of the child or youth is usually initiated at the request of the young person. The Advocate will try to negotiate a resolution to the matters raised and may formally review and/or investigate the concern in accordance with *The Ombudsman and Children's Advocate Act* if necessary. If a child or youth is unable to provide direction to the Children's Advocate Office, an Advocate will work to ensure that the child or youth receives all of the services to which they are entitled under provincial government legislation and in policy.

The Ombudsman and Children's Advocate Act establishes the range of services to be provided by the Children's Advocate Office and positions children and youth as the primary clients of the Office. While the majority of advocacy services are provided to children and youth up to the age of 18, services are available for youth up to age 21 when they are receiving services pursuant to the *Youth Criminal Justice Act*, or Section 56 of *The Child and Family Services Act*.

The Children's Advocate Office typically receives concerns regarding the ministries of Social Services, Health, Education, Justice, Corrections, Public Safety and Policing, as well as First Nations child and family services agencies.

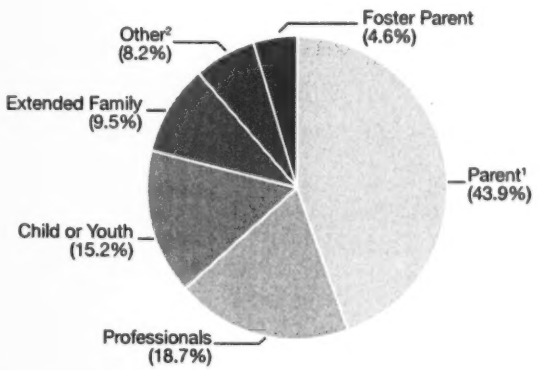
Who is Contacting the Office?

In 2008, the total number of requests for service to the Children's Advocate Office was 1,470, which was a 2.1 per cent decrease in volume over 2007.

The Children's Advocate Office becomes aware of concerns and issues from a variety of sources. In 2008, the largest number of contacts came to the Office from custodial and non-custodial parents or other caregivers at 43.9 per cent of all calls. Professionals, including social workers, teachers, physicians, nurses and mental health workers, made up the second largest category of referral sources at 18.7 per cent of all contacts.

As has been the case in past years, children and youth continue to contact the Office at a significant rate, coming in third at 15.2 per cent.

Chart 1: Relationship of Contact Person to Child or Group of Children in 2008



1 Includes parents, step-parents, non-custodial parents, legal guardians, caregivers, and persons of sufficient interest to the child.

2 Includes interested third parties such as band representatives, babysitters and neighbours. Also includes anonymous or unknown callers.

case study

Individual Advocacy
Brian, Age 16

Issue

A mental health professional contacted the Children's Advocate Office to report that a youth in his care, Brian, may be a victim of fraud.

Background

Brian had sustained a brain injury from a car accident several years earlier and had received an insurance settlement, as well as monthly funding from the Acquired Brain Injury Program (ABIP). For the past two years, he had lived in a youth facility; however, during this time his mother had continued to submit receipts to the ABIP for reimbursement.

Action

An Advocate from the Children's Advocate Office contacted the insurance company and the Public Guardian and Trustee's Office to confirm the reported facts and request additional information. Both agencies advised that they required formal requests due to privacy concerns. Therefore, the Children's Advocate Office sent formal letters of investigation requesting a meeting to discuss the case. Subsequently, a representative of the insurance company met with the Advocate and advised that the company's involvement was limited to an administrative role of providing monies to the Public Guardian and Trustee's Office. The Advocate then met with the manager of Children's Services and a representative of the Public Guardian and Trustee's Office to review the issue of the missing money. The manager was aware of the issue and had changed the process through which funds were released to the mother and advised that their lawyer had launched a civil suit against the mother to pursue any monies received fraudulently.

Outcome

The civil suit was later withdrawn from court as the mother was able to produce enough evidence to demonstrate that the costs were legitimately associated with the care of her son.

* All names have been changed to maintain confidentiality.

Why are they Contacting the Office?

The majority of issues identified by contact sources to the Children's Advocate Office focus on services provided by the Ministry of Social Services. In 2008, 48.3 per cent of all concerns raised involved Social Services with an additional 8.5 per cent of issues related to services provided by First Nations child and family services agencies, which operate under the delegated authority of the Ministry. In total, 56.8 per cent of all issues referred to the Office dealt with the provision of child welfare services in Saskatchewan.

The majority of these cases involve issues of case management and case planning for children and youth in the care of the Ministry. Typically, children and youth express concerns about the lack of communication about their case plan and/or the lack of opportunities for them to participate in the process. The Office continues to receive referrals from children and youth who have disagreed with a particular residential placement, have concerns about safety and stability due to multiple moves, and feel that the views of a parent and/or the Ministry of Social Services are given precedence over their own voice.

The Children's Advocate Office made 41 referrals in 2008 for children and youth to access independent legal representation from the new Pro Bono Program offered in partnership with the Pro Bono Law Saskatchewan. Referrals for children's counsel constituted over five per cent of all calls involving the Ministry of Social Services. Thirty-six of those 41 referrals were made in the Centre Region of the province.

Referrals regarding services provided by other government ministries and agencies have remained fairly consistent over the years. Caller referrals to the Children's Advocate Office involving the Ministry of Corrections, Public Safety and Policing rose slightly from 10 per cent in 2007 to 11.4 per cent of all issues received in 2008. These calls primarily involve concerns found in young offender facilities across the province, including allegations of mistreatment by authority personnel.

Other referrals made to the Office span a broad range of issues that include lack or denial of services and/or disagreement with the services offered. In 2008, six per cent of all issues reported to the Children's Advocate Office related to the Ministry of Justice and Attorney General, with custody and access issues constituting the majority of those calls. Issues regarding denial of medical treatment/drug coverage continued to be reported to the Office in 2008, comprising 45 per cent of all calls related to the Ministry of Health, which totalled 2.7 per cent of all issues handled by the Office.

case study

Individual Advocacy
Carla, Age 13

Issue
Carla, a youth in care of the Department of Community Resources (now Ministry of Social Services) as a permanent ward, contacted the Children's Advocate Office requesting assistance with her application to attend an academic and sports college.

Background
Carla had requested funding from the Department of Community Resources to attend the college and had received a letter of denial for full funding in June 2007. The Department had suggested that Carla make application for scholarships and that the Department would assist with a portion of the associated costs. As a result of this response, Carla was unable to make application for admission to the college in fall 2007, as she had originally planned.

Actions
With Carla's permission, the Children's Advocate Office appealed the Department's decision. An Advocate had several conversations with Carla and representatives of the Ministry over a period of one year to resolve the issue.

Outcome
In July 2008, Carla's appeal was granted and her request for funding to attend the college was provided by the Ministry of Social Services. Carla enrolled in the college in September 2008.

* All names have been changed to maintain confidentiality.

How Do We Handle the Contacts?

Those children, youth, parents, professionals and community members who contact the Children's Advocate Office to request assistance are first referred to the Early Resolution Advocate. She provides a timely response to all calls, with priority given to children and youth.

Through interviews to gather information, the Early Resolution Advocate identifies the relevant issues, determines if a complaint or enquiry falls within the jurisdiction of the Office, and then initiates the appropriate action.

Self-advocacy services that provide information or clarification about government policies and procedures, as well as existing appeal mechanisms, may be offered to the caller.

If self-advocacy strategies are not appropriate to the situation, the Early Resolution Advocate may make initial calls and conduct preliminary negotiations with decision-makers in government ministries on behalf of the child or youth in question.

If these early intervention strategies are not sufficient, the caller may be referred to an Advocate for further assistance. Once a file has reached this level, intervention may involve face-to-face meetings with the child, youth or others, as well as the facilitation of, and participation in, case conferences and meetings, and networking with multiple government ministries and organizations to resolve the issue or concern.

If a caller's concerns are outside the jurisdiction of the Children's Advocate Office, the Early Resolution Advocate may provide information and self-advocacy strategies to assist the caller in resolving his or her concerns.

Examples of issues over which the Office has no jurisdiction include: custody or access disputes, individual school boards, decisions of courts or Justices of the Peace, and federal government programs and services.

case study

Individual Advocacy
Jake, Age 15

Issue
A youth in custody, Jake, alleged that staff at a young offender facility physically and verbally assaulted him.

Background
Jake called the Children's Advocate Office to describe an incident when he was attacked by a staff member who took him to the ground, choked him, then "put the wrap" on him. Jake indicated that the incident started when he asked this staff member not to call him "scrubs." The staff member responded by saying "Who runs this dorm?" over and over. Jake reported the incident to the unit supervisor and was told an investigation would happen. A month later, Jake called the Children's Advocate Office as he had not heard anything further. Jake asked for an Advocate to inquire about the results of the investigation.

Action
An Advocate provided Jake's concerns in writing to the management of the facility and requested that the matter be reviewed and the outcome be provided in writing to the Children's Advocate Office. Jake subsequently contacted the Office to report that he was being intimidated by staff because of his disclosure. The Advocate reviewed that issue with management who committed to address the issue with staff.

Within two weeks, management responded that eight staff were asked to provide written statements and/or interviewed regarding the events surrounding the original incident, and information was obtained from Jake through a resident incident report. Given the allegations, the RCMP was asked to review the initial incident reports and subsequently they determined that no charges would be considered in the matter. Several of the allegations were substantiated and, as a result, the staff member involved was dealt with in accordance with the facility's human resources policies and procedures, as well as relevant articles of the collective bargaining agreement. Jake was informed that the matter was investigated and that it was being addressed with the staff member.

* All names have been changed to maintain confidentiality.

case study

Individual Advocacy
Jeremy, Age 12

Issue

A parent whose child, Jeremy, was voluntarily placed in the care of the Department of Community Resources (now Ministry of Social Services) under a series of Section 9 agreements due to his special needs, feared that she would lose guardianship of her son upon being notified that the Ministry would not enter into further Section 9 agreements and was seeking a court order to declare Jeremy a child in need of protection and to place him in the custody of the Minister of Social Services as a long-term ward.

Background

Jeremy's mother had entered into a succession of voluntary Section 9 agreements with the Ministry of Social Services under *The Child and Family Services Act* since he was a baby in order to secure the necessary supports for his special needs. Section 9 of the *Act* provides that a parent who:

- through special circumstances is unable to care for his or her child; or
- because of the special needs of his or her child is unable to provide the services required by the child;

may enter into an agreement with the Ministry of Social Services for a term not exceeding one year for the purpose of providing residential services for the child. Unless the agreement provides otherwise, the parent remains the guardian of the child for the duration of the agreement. The total period of all agreements shall not exceed 24 months, unless the Ministry, having regard to the best interests of the child, rules that an extension is required.

Jeremy's mother, Lynn, and her family had been told that due to changes in the Ministry's Community Living Division programming, a new Section 9 agreement would not be signed when the current one expired. Lynn was told that the Ministry was going to court to apply for long-term wardship even though there were no protection concerns. When Lynn subsequently contacted the Children's Advocate Office, she expressed that she did not know what this change in status meant and was afraid that Jeremy would not receive the same level of support and assistance as he had under the Section 9 agreement. She requested that an Advocate attend an upcoming meeting with the Ministry of Social Services, to represent Jeremy's voice in the process.

Action

An Advocate attended a meeting hosted by the Department of Community Resources including staff from the Long-Term Ward Unit, Community Living Division and Family Services, as well as Jeremy's parents.

The Department's position was that it needed to follow policy as Jeremy had been in care under a Section 9 agreement for many years. Department staff reviewed the proposed changes with Jeremy's parents, including what the new long-term ward designation and related community living program would offer in terms of additional supports and the fact that the parents would have full input with no loss of legal guardianship or visitation with their son.

It took a number of further meetings to inform and foster a level of comfort for the parents to accept the Department's decision.

Lynn contacted the Children's Advocate Office again to advise that she was having difficulty seeing Jeremy because she had been unable to contact Jeremy's caregiver after the change in his status. A meeting was held with an Advocate, Lynn and the Ministry of Social Services Area Service Manager, as well as the case supervisor and worker to discuss this issue. A subsequent meeting was held with the caseworker, Lynn, and Jeremy's caregiver to discuss the communication issues. The case supervisor and worker committed to be available to work through any further issues that may arise.

* All names have been changed to maintain confidentiality.

Themes and Emerging Issues

In 2008, the cases referred to the Children's Advocate Office for advocacy focused on issues related to case planning, lack or denial of services and/or supports, and mistreatment by authority personnel. All of these are historical themes that affect children and youth in the province year after year.

Consistently and persistently, the advocates in the Office find complaints and concerns about case planning for children in care of the Ministry of Social Services to be, by far, the number one issue on their case loads. This includes instances where a child or youth in care disagrees with the case plan, was not given an opportunity to participate in planning or decision-making processes, or most disturbingly may have no case plan at all. Related to these concerns are disagreements over placement in a particular residential resource and/or frequent moves between resources.

The second most common theme found in the referrals made to the Children's Advocate Office is the lack or denial of services and supports, which may include concerns about a government ministry not providing financial supports for special needs, medical treatment, prescribed drugs, education or recreation to children and youth in care. The most common complaint regarding lack or denial of services–and perhaps one of the more important to maintaining children and youth's connection to community and culture–is the disturbing number of referrals the Office receives regarding lack or denial of visits between children and youth in care and their families.

Reports by children and youth living in residential group homes or in young offender facilities continue to alarm the Office's advocates. These include allegations that children and youth are inappropriately restrained and/or physically or verbally abused by facility staff or caregivers.

In other cases, the Children's Advocate Office received reports that children and youth may have inadequate contact with Ministry of Social Services caseworkers and other professionals who are responsible for their care, protection and well-being.

case study

Individual Advocacy
Jeff, Age 17

Issue

A high school student, Jeff, was denied the opportunity to participate in drivers education due to the lack of equipment to accommodate his abilities.

Background

Jeff called the Children's Advocate Office indicating that he felt that he had been discriminated against at his high school in Saskatoon. He had wanted to take drivers education, but his application was denied as the school did not have a vehicle with hand controls. Jeff does not have the use of his legs, a fact that was confirmed through a medical assessment.

The school would not cover the cost of Jeff taking the lessons from another source that could accommodate his abilities. This may have violated his rights under Section 15 of the *Canadian Charter of Rights and Freedoms*, as well as his rights under the *Saskatchewan Human Rights Code*. As Jeff was in care of the Ministry of Social Services at that time, he then went to his Ministry caseworker who told him the Ministry would not cover the cost as driving is a privilege not a right. To complete drivers education, Jeff required six hours in class training at $110 per class and six hours in car training at $90 per session. Subsequent to his denial to participate in drivers education, Jeff left the school. However, he contacted the Children's Advocate Office to resolve the issue.

Action

An Advocate contacted the Superintendent of the school division to discuss the concerns on behalf of the youth. The Superintendent investigated Jeff's allegations and substantiated that the youth was, in fact, entitled to drivers education. The Superintendent committed to make all necessary accommodations for Jeff to participate at his new school. The school division would not acknowledge that Jeff had been discriminated against due to his disability, maintaining that the issue arose from miscommunication. Subsequently, Jeff was provided the opportunity to take drivers education with the proper equipment in the vehicle.

* All names have been changed to maintain confidentiality.

Systemic Advocacy

First Nations Children and Youth

As noted in the Children's Advocate Office's *2007 Annual Report*, differential treatment for children and youth living on-reserve and off-reserve has emerged as a significant issue in recent years.

Over time, the Office has engaged in individual, group and systemic advocacy on behalf of children and youth residing in group homes located on-reserve. That work has revealed deficiencies in the facilities, programming and staffing that have significantly affected the children and youth living in the homes. It continues to be the position of the Children's Advocate Office that the Governments of Canada and Saskatchewan must guarantee that services provided to all First Nations children on reserve are, at minimum, equal to those provided to children off reserve and ideally, are appropriate to the specific needs of First Nations children and the communities within which they reside.

Children and Youth in Overcrowded Foster Homes

In 2008, the Children's Advocate Office concluded its investigation into foster home overcrowding in the Saskatoon Service Centre. The Office issued its preliminary report to the Ministry of Social Services near the end of December. The Office remained vigilant in reporting situations to the Ministry of Social Services, which were discovered during the investigation's file review or interviews, where children and youth remained at risk while living in an overcrowded foster home. The Office also continued to engage in systemic advocacy on behalf of children and youth living in overcrowded foster homes across the province.

Children and Youth in Need of Independent Legal Representation

An emerging issue for the Children's Advocate Office in 2008 was the increasing number of referrals for independent legal representation for children and youth involved in child welfare cases. The Office's Early Resolution Advocate is tasked with processing the initial request and communicating the case and needs of the child or youth client to the Pro Bono Program roster of lawyers available. As word has spread about this service, more and more referrals are being received by the Office.

case study

Group Advocacy
*Michelle, 17, Sierra, 13, and Kim, 16

Issue
The Children's Advocate Office received similar referrals regarding the treatment experienced by three female youth held on remand by the RCMP.

Background
Michelle, Sierra and Kim separately reported that while remanded to an RCMP Detachment, they had no access to a shower for up to two weeks, and that in two of the cases the youth were also not provided with a toothbrush or any other personal hygiene items.

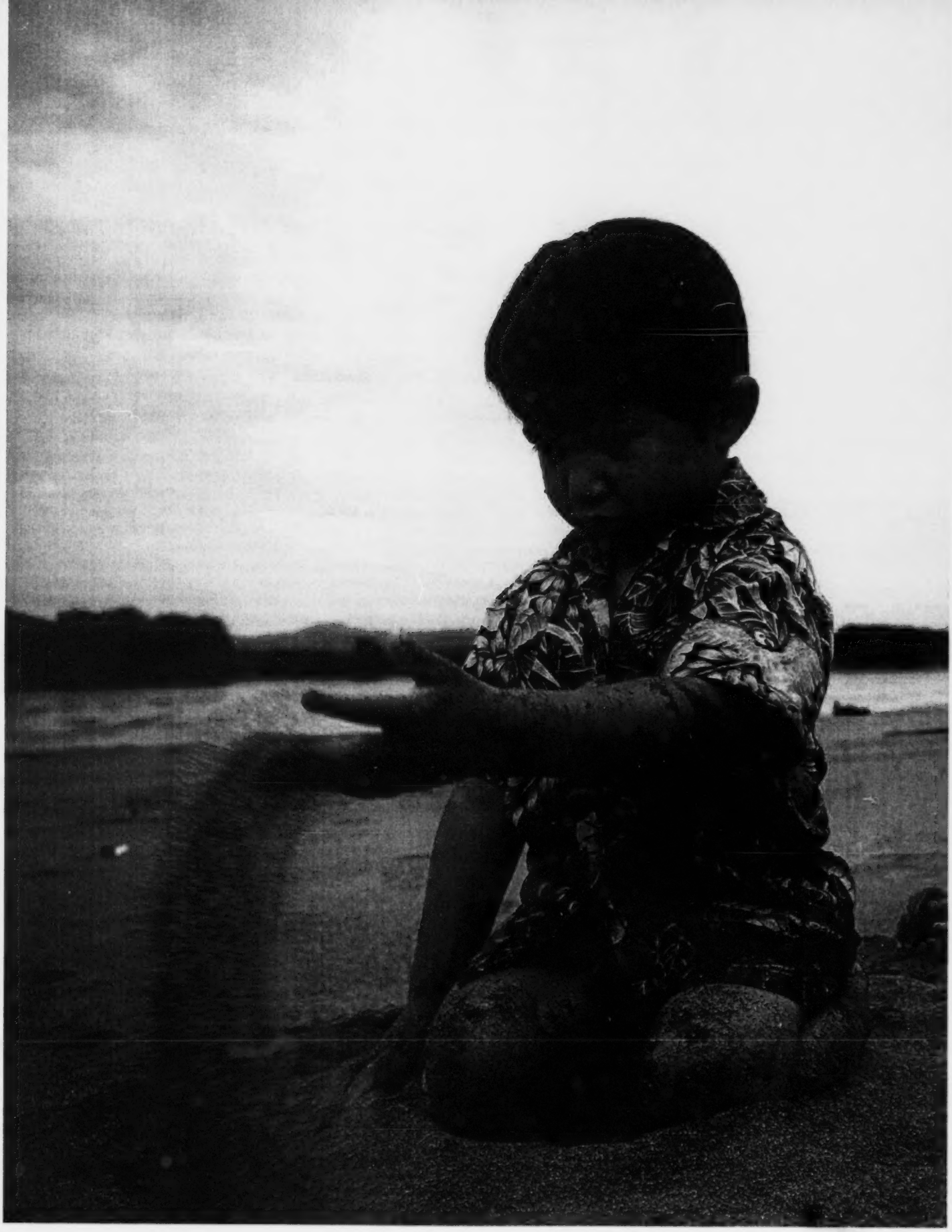
Action
The initial intake came from Michelle, who called to complain about a week she had recently spent in RCMP cells. She reported that during that time, she did not have access to a shower or to a toothbrush and toothpaste.

An Advocate contacted the Staff Sergeant at the RCMP Detachment, who indicated that the shower was out of order, but that they were having it repaired. He also advised that the RCMP did not provide anyone with toothbrushes or toothpaste, but would accept the items from family if they were brought to the detachment. The Advocate contacted Michelle's family with this information and the matter was resolved.

Five months later, the Children's Advocate Office received two similar complaints about the RCMP Detachment. Both Sierra and Kim indicated that they had been remanded for a significant length of time without access to a shower or personal hygiene items.

The Advocate wrote a letter to the Commanding Officer of the RCMP and lodged a complaint with the RCMP Complaints Commission on behalf of the youth. A Sergeant was assigned to immediately address the concerns. The Advocate met with RCMP staff to review the concerns and the RCMP confirmed that the shower was repaired, and that toothbrushes and toothpaste are now provided to youth in remand at the RMCP Detachment.

* All names have been changed to maintain confidentiality.



Investigations

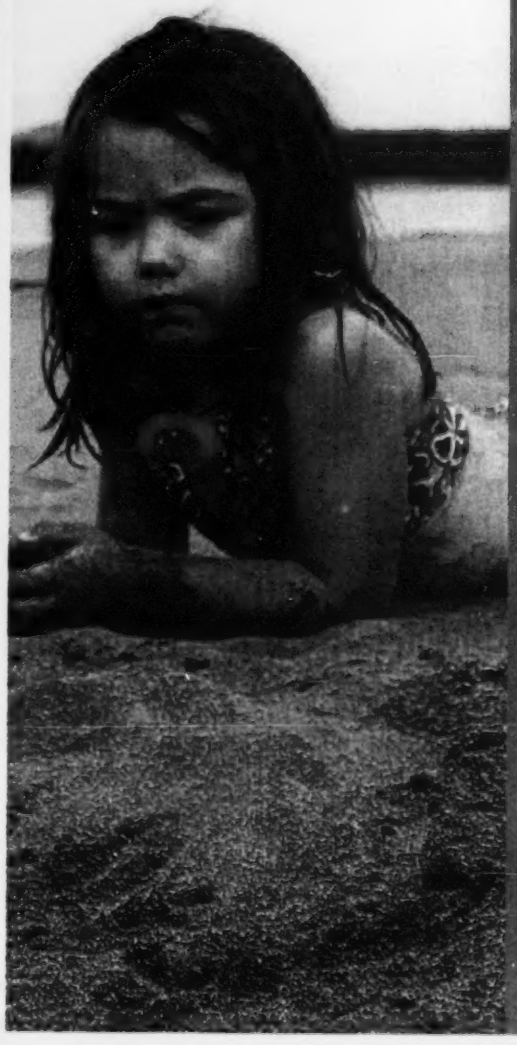
The Children's Advocate Office has the legislated responsibility to receive, review and investigate concerns regarding services provided to children and youth by the Government of Saskatchewan. Office staff believe that children and youth are entitled to an array of investigative options similar to adults. In December 2006, the Office delineated five areas of investigation under its mandate from *The Ombudsman and Children's Advocate Act*, in order to provide children and their natural advocates with a full continuum of investigative services:

- Child Death Investigations
- Critical Injury Investigations
- Fairness Investigations
- Program and Services Investigations
- Mandatory Investigations (initiated upon referral by a Committee of the Saskatchewan Legislative Assembly or Lieutenant-Governor in Council)

Regardless of the type of investigation undertaken, the fundamental purpose is the same, which is to:

- **Recommend changes in government legislation, policy and/or practice** that will prevent future harm to children and youth.
- **Improve the quality of services** provided by child protection and other child-serving systems.
- **Promote greater public accountability.**

We place the rights, best interests and well-being of the child or youth at the centre of all investigations. An investigation can focus on a single issue or include an assessment of many issues, and can involve many ministries, agencies and/or systems. Multi-disciplinary investigations examine all relevant child-serving systems that have provided services to the child or youth in question, and typically involve the review and analysis of multiple files. For instance, information from the Ministry of Social Services, First Nations child and family services agencies, the Ministry of Corrections, Public Safety and Policing, the Coroner's Office, the Ministry of Education, the Ministry of Health (including hospitals, public health, mental health and addictions services), civic police and the RCMP may have to be reviewed during a single investigation.



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Investigations Conducted in 2008

Child Deaths

Since 1997, the Children's Advocate Office has conducted independent investigations into the deaths of children and youth in receipt of services from the Government of Saskatchewan. Currently, the Children's Advocate Office investigates when children and youth die while receiving direct or delegated services or have received services from the Ministry of Social Services and/or the Ministry of Corrections, Public Safety and Policing within 12 months of their death.

In 2008, the Children's Advocate Office conducted 23 child death investigations. Eighteen of those investigations closed under Section 18 of *The Ombudsman and Children's Advocate Act* whereby the Children's Advocate has the discretion to refuse or cease an investigation. The majority of those closed investigations were related to the deaths of medically fragile children, where the preliminary review of the case indicated the child had died of natural causes.

The five remaining child death investigations were completed with a multi-disciplinary investigation and review by the CAO Multi-Disciplinary Advisory Team. These five investigations involved one suicide, an accidental drowning, a sudden undetermined death, one Sudden Infant Death, and a death as a result of non-accidental trauma. Four of the children or youth were male and one was female. Four of these investigations involved children of First Nations ancestry.

Of the 23 children whose death investigations were closed in 2008, 15 were in the care of the Ministry of Social Services, two in the care of First Nations child and family services agencies, and six were under the authority of the Ministry of Corrections, Public Safety and Policing.

case study

Child Death Investigation
*Doreen, Age 11

Issue
Doreen died from an accidental overdose of morphine, while staying at an acquaintance's apartment. The Children's Advocate Office investigated whether Doreen and her family received appropriate services from the Department of Community Resources (now Ministry of Social Services) in the months and years preceding her death.

Background
Doreen contacted an acquaintance at approximately 1:00 a.m. and asked him if she could spend the night at his apartment. The acquaintance allowed Doreen to stay and directed her to sleep on the floor. That was the last time he saw her conscious. At approximately 4:30 p.m., Doreen had not moved from her position on the floor, so he tried to wake her. Doreen did not respond, so he called 911. The ambulance attendants arrived and no attempt was made to revive her. Doreen was pronounced dead at the scene.

Outcome
The Children's Advocate Office investigation of Doreen's death determined that the Ministry of Social Services failed to follow policy and that opportunities for intervention were lost in its involvement with Doreen's mother and her children in the months and years preceding her death. These conclusions were consistent with the findings that were made by Ministry staff in their own Child/Youth Death Report on this case.

The Ministry's lack of appropriate intervention into the family's lives, based on reports of incidents from police, the community and professionals, left the mother and her children at risk of harm due to the presence of ongoing neglect. This included poor supervision, not providing the children with food, the children not attending school, the children using alcohol, drugs or inhalants, and Doreen's victimization by sexual exploitation. All of these issues emanated from the mother's struggles with alcohol and gambling, and her inability to parent her children in a way that met their needs.

There were significant junctures when Ministry of Social Services staff contact with the parent and/or child should have produced useful information from which a proper assessment of risk could have been made. However, a lack of appropriate case management and ineffective use of risk assessment tools for case planning led to premature closure of family services involvement. This lack of action on behalf of the Ministry of Social Services contributed to a young girl without much support at home turning to drugs and the street to have her needs met. The sad result was Doreen's death.

* All names have been changed to maintain confidentiality.

Critical Injuries

The Children's Advocate Office investigates when children and youth suffer critical injuries while receiving direct or delegated services or have received services from the Ministry of Social Services and/or the Ministry of Corrections, Public Safety and Policing within 12 months of their injury. The Office prioritizes the investigation of critical injuries, given that a child or youth may need additional advocacy services.

Critical injury investigations may be conducted in a multi-disciplinary manner and many of the themes found in these investigations parallel the themes that have been found in child death investigations.

A "critical injury" is defined by the Children's Advocate Office as being "an incident where the injury sustained by the child or youth necessitates his or her hospitalization and major medical treatment." Additionally, the Office may investigate an attempted suicide as a critical injury, regardless of whether hospitalization or major medical treatment was required.

The Children's Advocate Office received 14 critical injury referrals from government ministries in 2008. The Office conducted two investigations, which involved a child who suffered second degree burns, and another child who was assaulted resulting in a non-accidental trauma brain injury.

One boy and one girl were the subjects of these investigations and both of the children or youth involved were of First Nations ancestry.

case study

Critical Injury Investigation *Michael, Age 12

Issue
Michael suffered burns on his back while reportedly playing with some boys he did not know. The Children's Advocate Office investigated whether Michael received appropriate services from the Department of Community Resources (now Ministry of Social Services) preceding and at the time of this critical injury.

Background
Michael was apprehended from the care of his mother due to numerous incidents when he was left unsupervised, which resulted in him starting a number of fires including the destruction of a garage. At the time of the critical injury, Michael was living with his grandmother, Ruth, who was designated as a Person of Sufficient Interest by the Department of Community Resources.

Outcome
The Children's Advocate Office critical injury investigation of Michael's burns found that the Department of Community Resources decision to sever parental rights and place him with extended family was according to policy per the *Family-Centred Services Manual*. While the placement with his grandmother provided family connection and some stability, it appeared that Michael continued to miss school and stayed away from home regularly.

One of the reasons that Michael came into care was his fire setting due to a lack of supervision. The subsequent critical injury may be a continuation of this earlier fascination with fire. Unfortunately, a previous referral made to the Department of Community Resources to arrange for counseling in regard to this behavior and injury was not followed up on because the family had moved. Prior to the move, the regional office of the Department had provided extensive supports to Michael's grandmother to assist in his Person of Sufficient Interest placement success. Following the move, that same level of support was not offered by the regional office serving that location resulting in differential service being provided by the Department based on where the family lived in Saskatchewan.

Upon completion of the critical injury investigation, the Children's Advocate Office recommended that the Department of Community Resources fully assess Michael's placement to determine if support services are required. It was also recommended that the Department provide a referral to mental health services so Michael could be assessed in regards to his critical injury and earlier interest in fire setting.

* All names have been changed to maintain confidentiality.

Investigations Conducted in 2008 (con't)

Programs and Services

The Children's Advocate Office conducts program and service investigations to ensure that children and youth obtain the benefits to which they are entitled from Government of Saskatchewan child and youth serving ministries and from delegated or government funded, community-based agencies and organizations.

Concerns raised by children and youth, their families, professionals or other members of the community, which affect groups of children, may be investigated under the jurisdiction of the Children's Advocate Office. The Children's Advocate may also initiate these "systemic" investigations on his own motion, or by referral from a committee of the Legislative Assembly or Lieutenant Governor in Council.

In 2008, two investigators from the Children's Advocate Office completed a systemic investigation into foster home overcrowding in the Saskatoon Service Centre area of the Ministry of Social Services.

The preliminary investigation report was provided to the Ministry of Social Services on December 22, 2008, per Section 21(3) of *The Ombudsman and Children's Advocate Act*. This section of the *Act* provides that if at any time it appears that there are sufficient grounds for making a report or recommendation in respect of any matter that may "adversely affect" any ministry, agency of the government or person, the Children's Advocate shall give to that ministry, agency or person an opportunity to make representations in respect of the matter.

Due to the extent of the Children's Advocate Office's foster home overcrowding investigation and subsequent report, the Office provided this information to the Ministry of Social Services 45 days prior to tabling the final report in the Saskatchewan Legislature.

Fairness

The staff of the Children's Advocate Office believe that just as adults have access to fairness investigations through the Provincial Ombudsman, children and youth are entitled to the same right. Therefore, we are committed to undertaking fairness investigations that may arise where the decision, action or omission of the Government of Saskatchewan is:

- Unreasonable
- Contrary to law
- Oppressive
- Improperly discriminatory
- Based on a mistake of law or fact
- Wrong

Essentially, a "fair process" requires that the child or youth affected is:

- Aware that a decision will be made.
- Aware of the information that will be considered when the decision is made.
- Given an opportunity to provide his or her own information and to challenge the information in the decision-maker's hands.
- Notified and provided with reasons for the decision.

Further, a fair process requires that the decision-maker is basing decisions on a consideration of all relevant information, nothing irrelevant, and is unbiased.

In 2008, the Children's Advocate Office did not initiate any fairness investigations; however, work continued on one extensive investigation begun in 2007.

case study

Fairness Investigation
Taylor Siblings: Dan, 17, Jane, 16, Maggie, 12, John, 8, and Sally, 5[1]

Issue

Whether the Department of Community Resources (now Ministry of Social Services) acted unfairly by failing to comply with court orders concerning five sibling children in its care.

Background

The Taylor siblings were the subject of child welfare proceedings in the Court of Queen's Bench (Family Law Division) in the judicial centre of Prince Albert. The main issues heard by the Court were whether the children should be made long-term wards (which prevents adoption registration and placement) or permanent wards of the Province of Saskatchewan (which authorizes adoption registration and placement). All of the children were previously found to be in need of protection, and all the children involved were members of, or entitled to be members of, the Sturgeon Lake First Nation.

The Children's Advocate Office undertook this fairness investigation after it was brought to the attention of the Office that the Department of Community Resources had not yet taken the steps directed by the Court to make permanent plans for the adoption of three of five sibling children, who had been made permanent wards and ordered to be immediately registered for adoption.

Upon rendering its Judgment in December 2004, the Court ordered the following:

1. That the two elder siblings, Dan and Jane, be made long-term wards, subject to various conditions, including that they not be removed from their current foster home without a court order; that the Department arrange and fund regular visits between Dan and Jane and their biological mother and siblings, the visits be arranged at least once a month; and that the children have visits with their maternal grandmother, so long as those visits are in their best interests and are approved by the Department.

2. That Maggie be made a permanent ward, subject to various conditions, including that she be immediately registered for adoption; that her adoption be an open one that allows continued contact with her biological mother, siblings and the Sturgeon Lake Band; that she not be removed from her current therapeutic home without a court order until placement for adoption occurs; that her adoption be an assisted one, with her adoptive parents receiving training with regard to Reactive Attachment Disorder; and that they and Maggie receive whatever reasonable counselling and/or treatment are necessary to address the disorder. It was also recommended that the Sturgeon Lake Band provide a mentor for Maggie and/or her adoptive family to teach her about her Aboriginal ancestry and to ensure her participation in cultural events.

3. That John be made a permanent ward, subject to various conditions, including that he be immediately registered for adoption; that his adoption be an open one that allows continued contact with his biological mother, siblings and the Sturgeon Lake Band; and that he not be removed from his current foster home until placement for adoption occurs. It was also recommended that the Sturgeon Lake Band provide a mentor for John and/or his adoptive family to teach him about his Aboriginal ancestry and to ensure his participation in cultural events.

4. That Sally be made a permanent ward, subject to various conditions, including that she be placed for adoption with her current foster parents if they consent, and if not, with another family approved by the Department; that she not be removed from her current foster home without a court order; that prior to placement for adoption, she be assessed for developmental delays and for Fetal Alcohol Spectrum Disorder, with the results being provided to Sally's foster parents before their consent to the adoption is finalized; that the adoption be an open one; and that if Sally's foster parents want to adopt, the adoption should be an assisted one so that the family does not suffer financial hardship as a result of the change in legal status. It was also recommended that the Sturgeon Lake Band provide a mentor for Sally and/or her adoptive family to teach them about Sally's Aboriginal ancestry and to involve them in cultural events.

1 These are the same first name pseudonyms designated by Madam Justice Ryan Froslie in her Judgment of *Re R.T.* (2004), 248 Sask. R. 174, (Sask. Q.B.). The surname is a pseudonym as well and the respective sibling ages are those as of the end of the investigation in 2008.

Investigations Conducted in 2008 (con't)

As well, the Court considered the constitutionality of the Department of Community Resources policy directive (not reflected in legislation or regulations) that prohibited Aboriginal children from being placed for adoption without consent of the child's band or relevant First Nations child and family services agency. This issue was considered by the Court subsequent to appointing counsel for the five children after the Department's counsel acknowledged that the Department was constrained in its recommended dispositions to the Court because of this policy directive. Ultimately, the Court struck down the policy directive as unconstitutional, based upon violations of the rights of the children under both sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*. Although an appeal was filed in the Saskatchewan Court of Appeal by the Sturgeon Lake Band from the constitutional ruling, it was administratively dismissed on November 14, 2006.

Outcome

The Children's Advocate Office's investigation of the treatment of the Taylor siblings focused on the Department of Community Resources response to the specific orders of the Court, and the subsequent case management of the children's lives.

Both Dan and Jane were removed from their same foster home prior to the Department of Community Resources securing the required court orders. However, it appeared that the change of placement was required even before a court date and time could be arranged. Subsequently, Dan and Jane were each moved on six additional occasions and have had multiple caregivers. At the time of the Children's Advocate Office's investigation, Dan was happily living on reserve with his maternal grandmother, and visits and contact with his siblings were occurring. Jane was placed in an alternate care home. Visits with her siblings were sporadic and contact with her grandmother resulted in conflict due to her significant behavioral issues.

In Maggie's case, there was a breach of the court order in that she was not immediately registered for adoption, and such registration did not occur until 28 months after she was made a permanent ward, even though the Court ordered an "immediate" adoption registration and the Ministry's own policy specifies a maximum period of 90 days. There was also no file record of: whether a court order had been obtained, sanctioning Maggie's move out of her therapeutic foster home; whether Maggie had received counselling, or that the current caregiver had received any training with regard to Reactive Attachment Disorder; whether the adoption would be an open adoption, as had been stipulated by the Court; and whether the Sturgeon Lake Band had provided an Aboriginal cultural mentor for Maggie and her caregivers.

In John's case, there was a breach of the court order in that he was not immediately registered for adoption, and such registration did not occur until 28 months after he was made a permanent ward, even though the Court ordered an "immediate" adoption registration and the Ministry's own policy specifies a maximum period of 90 days. There was also consideration of John remaining with his current foster parents until he reaches adulthood as an alternative to adoption by extended family, which was contrary to the court order. There was also no file record of whether the Sturgeon Lake Band had provided an Aboriginal cultural mentor for John and his caregivers.

In Sally's case, there was a breach of Ministry policy in that she was not registered for adoption within 90 days of the granting of the permanent wardship order, with such registration not occurring until 10 months after she was made a permanent ward. The court order was also breached in that Sally did not receive an assessment for developmental delays and fetal alcohol spectrum disorder prior to placement for adoption, nor did she receive mentoring from the Sturgeon Lake Band, as recommended by the Court.

Investigation of the individual factors that impacted on case management of the files also identified systemic issues that influenced the care and planning they received. The overriding theme that emerged from each child's file and interviews conducted with Department of Community Resources staff and supervisors during the investigation was that the regional office responsible for the management of these cases was poorly organized with respect to ensuring that the children would be registered according to both the court order and/or provincial policy. The investigation also raised the concern that regional staff did not know, or did not understand that court orders supersede departmental policy and must be strictly adhered to, or contempt sanctions could apply.

An appeal, filed by the Sturgeon Lake Band in response to the Court Judgment in December 2004, focused on the broader constitutional question regarding the Aboriginal right to speak for their children and be involved with

case study

their placement. It was acknowledged through legal consultation with the Department of Justice that the Band was not appealing the long-term and permanent orders affecting the children; however, Department of Community Resources staff and supervisors acknowledged that this appeal did have some impact on their actions to not move forward on case planning and registration for adoption of the Taylor children.

Additionally, the Children's Advocate Office investigation found that deficient policy, practice and information management; poor supervision and/or direction of staff; and confusion over the unique conditions made in the court order all contributed to the delay in permanency planning for the Taylor children. The investigation concluded that the Department of Community Resources needed to focus resources and attention on the legislative, policy and practice issues related to the continuum of permanency planning and adoption.

Although this was a case that arose in the Prince Albert Office of the Northeast Region, an extensive review of file material and interviews and discussions with Department of Community Resources staff, including at the senior management level, revealed a number of issues relating to permanency planning and adoption, which are provincial in scope, and require further attention:

- That the policy directive struck down as unconstitutional by the Court, in December 2004 was still in both the Children's Services and Adoption policy manuals until May 2007, when the Children's Advocate Office requested updated information regarding the policy. It is apparent that minimal changes or amendments have been made to the adoption policy since 2001. It is also of concern that the unconstitutional policy remained in the policy manual and thus exposed many long-term and/or permanent wards to the jeopardy of not being eligible for a secure placement with a permanent adoptive family.
- That there is a need for a provincial review of the 90 day policy to complete adoption registrations, as many staff are not meeting the standard. Community Resources has received feedback from the field that the standard is very hard to meet.
- That there is an inability on the part of Central Office to check the number of permanent wards who are waiting and have not been registered for adoption, as those numbers are not kept centrally. The numbers of unregistered permanent wards are kept locally/regionally. Central Office only has a record of how many children have been registered for adoption, as registrations are all sent to the Central Adoption Registry in Regina.
- That there is minimal understanding on the part of staff of the Department of Community Resources as to the legal obligations that are created by court orders. The issues include not only obligations to meet the conditions of a court order, but also that a court order supersedes provincial policy, and what steps should be taken if the Department of Community Resources is in opposition to an order made by the Court.
- That there is the view within the Department of Community Resources that there is a poor allocation of resources, resulting in child protection workers being unrealistically tasked with completing adoption registrations, when they are already overworked with high child protection case loads, which take precedence over adoption registrations and other related paperwork. This concern is, in turn, perceived as leading to children remaining in care longer, foster home overcrowding and worker burn out.
- That the provincial policy regarding registering a child for adoption is silent as to whether concurrent planning must occur subsequent to a child being made a permanent ward, so that it is important to ensure that a child will still be registered for adoption, even if other alternatives for a child's care emerge.
- That there is a need for Central Office direction respecting permanency planning, which includes support and training opportunities for designated staff, so that there is consistent program delivery across the province.

The recommendations resulting from this investigation can be found on page 30 in this *Annual Report* and are numbered 08-13083 to 08-13090, inclusive.

Investigations Conducted in 2008 (con't)

Mandatory

Section 12.61(1) and 12.51(3) of *The Ombudsman and Children's Advocate Act* empowers a committee of Saskatchewan's Legislative Assembly, as well as the Lieutenant Governor in Council, to make referrals to the Children's Advocate for review, for investigation, and to report on matters affecting the interests and well-being of children. The Children's Advocate must carry out the request for review, investigation and subsequent report, as required by the *Act*, except in instances where the issues lie outside his jurisdiction.

While there have not been any previous referrals from the Legislative Assembly or the Lieutenant Governor in Council, the Children's Advocate has raised the issue of mandatory investigations as a potential area government should consider invoking, subject to appropriate negotiation of terms of reference and funding for the Children's Advocate Office. When assessing an issue, the Office's independent perspective can contribute to both the credibility of any outcome and an increased level of public confidence in the process.

Children's Advocate Office colleagues Roxane Schury (left) and Elaine Thomas (right) celebrate with Leah Bitternose on the occasion of her being called to the Saskatchewan Bar on October 10, 2008.

Multi-Disciplinary Advisory Team

The Children's Advocate has created a Multi-Disciplinary Advisory Team to provide professional analysis and expertise in assessing investigation reports and in the formulation of recommendations. The Advisory Team provides expert advice in the areas of pediatrics, forensic pathology, law enforcement, law, mental health, education and child welfare, which results in recommendations being forwarded to child and youth serving ministries and agencies based on current best practices, knowledge and expertise.

2008 Multi-Disciplinary Advisory Team

Dr. Patricia Blakley, Medical Director,
Kinsmen Children's Centre

Ms. Darlene Domshy, Executive Director
Saskatchewan Youth in Care and Custody Network

Dr. Gordon Kasian, retired Pediatric Intensivist

Dr. Shaun Ladham, Chief Forensic Pathologist
Coroner's Office, Saskatchewan

Mr. Murray Langgard, National Parole Board
and retired Chief of Police, Regina

Mr. Michael LeClaire, retired Educator

Mr. Ron Pollock, Child Welfare Consultant

Mr. Kent Stewart, Chief Coroner
Saskatchewan

Ms. Terri Woods, Program Manager
Adult Community Mental Health, Addictions

Ms. Joslyn Wuttunee, retired RCMP

case study

Child Death Investigation
*Dustin, Age 7 months

Issue
Dustin died as a consequence of non-accidental trauma and subsequent medical treatment that resulted in a lack of oxygen to his brain (hypoxic/ischemic encephalopathy and the sequelae thereof). The Children's Advocate Office investigated whether Dustin and his family received appropriate services from the Department of Community Resources (now Ministry of Social Services) in the months preceding his death.

Background
Dustin's step-father, John, contacted his brother-in-law telling him that Dustin was limp, vomiting and turning blue. At the time, John was alone and caring for Dustin and five other children. The brother-in-law called 911.

John accompanied Dustin to the hospital in an ambulance. Resuscitation efforts were started en route; however, it was later determined that the endotracheal tube was placed either incorrectly or had dislodged in transit. This resulted in an estimated 15 to 20 minutes of in a lack of oxygen to his brain (cerebral hypoxic/ischemic insult). Following immediate resuscitation at Royal University Hospital, Dustin was transferred to the Pediatric Intensive Care Unit.

Upon arrival at the hospital, John alleged that one of Dustin's siblings had jumped on the infant's stomach just prior to Dustin exhibiting symptoms. On initial examination at the hospital, medical professionals discovered that Dustin had numerous trauma related injuries in various stages of healing. In addition to his acute injury, he had several fractures of the ribs and limbs in various stages of healing, contusions on his face, scalp and spine, and an injury involving swelling of the brain (small subdural hematoma). This examination also determined that Dustin's acute injury was not caused by a child, but by an adult.

Dustin did not regain consciousness and remained in a vegetative state of hypoxic encephalopathy until his death just over three months later. To date, no one has been charged with the injury and subsequent death of Dustin.

Outcome
The Children's Advocate Office investigation into Dustin's death affirmed the findings of the Department of Community Resources own internal review "that the case management in this case was substandard and opportunities were missed to accurately assess the risk to Dustin and the other children in the home."

The Children's Advocate Office investigation specifically found, among other issues, that:

- The Department of Community Resources regional practice in place at the time of Dustin's death, of having the Department's Income Assistance Division workers channel child protection concerns through their supervisors, was contrary to both *The Child and Family Services Act* as well as the *Provincial Child Abuse Protocol*.
- Upon receiving previous reports of protection concerns regarding Dustin and his family:
  - The Department's Automated Client Index (ACI) was not accessed by intake staff, the teen and young parent worker, the investigator or their supervisors, contrary to policy.
  - The intake worker and staff failed to identify that Dustin's step-father had previous child welfare involvement.
- Upon investigating previous reports of protection concerns regarding Dustin and his family:
  - The investigator and supervisor failed to include Dustin's step-father in the Risk Assessment.
  - The Risk Assessment was inaccurate as it did not take into account reported bruises, Dustin's young age, and the stress of the mother and step-father dealing with a new relationship and four children.

The recommendations resulting from this investigation can be found on page 31 in this *Annual Report* and are numbered 08-13597 and 08-13598.

* All names have been changed to maintain confidentiality.

Recommendations Forwarded in 2008

Based on investigations that were concluded in 2008, the Children's Advocate Office forwarded the following 15 recommendations to address the individual needs of particular children and youth, and/or the broader need for systemic change in legislation, policy or practice in order to improve services and programs provided by the Government of Saskatchewan child and youth-serving ministries or agencies.

08-13083

That the Ministry of Social Services (formerly the Department of Community Resources), with the assistance of the Ministry of Justice and Attorney General, develop and implement a formal provincial training plan to educate managers, supervisors and social workers regarding the legal obligations of the Ministry of Social Services to follow court orders and address other legal issues that arise out of child protection interventions or proceedings.

08-13084

That the Ministry of Social Services institute a policy and procedure whereby social workers and managers are to consult with Ministry of Social Services or Ministry of Justice and Attorney General lawyers as to the meaning of court orders, when confusion about the content is present.

08-13085

That the Ministry of Social Services develop and implement a policy directing that concurrent permanency planning occurs by way of completing the registration of permanent wards for adoption, even though family is still being canvassed as a possible resource for placement. Unsuccessful efforts to find an appropriate family resource would therefore not delay the registration of a child for adoption and potential adoption placement.

08-13086

That the Ministries of Social Services and Justice and Attorney General create a standing committee of stakeholders to identify and resolve issues or confusion, which arises in the course of child protection proceedings, and formulate best practices recommendations to address the concerns.

08-13087

That the Ministry of Social Services completes a review to assess regional statistics to determine the number of children awaiting registration for adoption in Saskatchewan. The review should include the length of time that it is taking to complete the registration process. A copy of the review is to be provided to the Children's Advocate Office by June 30, 2008.

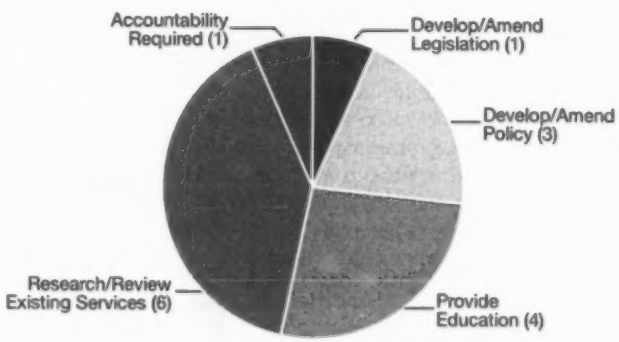
08-13088

That the Ministry of Social Services review regionally the distribution of workload amongst social work staff to ensure that children, who are permanent wards, do not have to wait to have their registrations completed because of a worker's inability to do so, as a result of other duties.

08-13089

That the policy regarding the adoption of First Nations children, which was inserted into the policy manual in May 2007, be formally announced by memo or other system-wide information distribution mechanism, and follow-up training provided to all Ministry of Social Services and First Nations Child and Family Services Agency child protection staff. The policy must include the process to be followed when a First Nations child is being considered to be made a permanent ward; how First Nations will be meaningfully consulted, and what the criteria for decision-making will be, should consensus between the First Nations and the Ministry of Social Services not be achieved.

Chart 2: Type of Recommendation Forwarded to Child-Serving Ministries in 2008



08-13090

That the Ministry of Social Services and Ministry of Justice and Attorney General amend *The Child and Family Services Act* by removing section 29, which restricts children from being made parties to child welfare proceedings, and implement a legislated program of child representation in the *Act* that will ensure that the best interests of children are considered. (08-13090) The recommendations are the same as those forwarded to the Ministers of Community Resources and Justice on December 29, 2006, and read as follows:

i) That the Minister of Community Resources introduce proposed amendments to *The Child and Family Services Act* enabling children to obtain full status as a party in child welfare proceedings. (06-10840)

ii) That the Minister of Community Resources introduce proposed amendments to *The Child and Family Services Act* authorizing judges at all Court levels in Saskatchewan to appoint independent legal representation for children in child welfare proceedings. (06-10841)

iii) That the Minister of Community Resources introduce proposed amendments to *The Child and Family Services Act* setting out prescribed criteria by which a Court will determine whether a child requires independent legal representation in child welfare proceedings. (06-10842)

iv) That the Ministers of Community Resources and Justice, in collaboration with relevant stakeholders, develop, fund and implement a legal program, with sufficient training and administrative oversight, that would provide children with access to independent legal representation in child welfare proceedings. (06-10844)

08-13597

That the Ministry of Social Services ensure that all programs and services under their authority in the province are aware of their duty to report as per *The Child and Family Services Act* and the *Provincial Child Abuse Protocol*.

08-13598

That the Ministry of Social Services enhance policy to indicate that investigators access the Automated Client Index on ALL parties identified when completing a child protection investigation.

08-13800

That the Ministry of Justice and Attorney General research best practices in regard to victim notification and implement a method of victim notification for victims of domestic violence when a perpetrator is released from cells or court to the community, that will protect children and families.

08-13863

That the Ministry of Social Services fully assess Tom's* placement and determine if support services are required.

08-13864

That the Ministry of Social Services make a referral to Mental Health in order to assess Tom's* risk related to fire setting, or the reasons for this behavior.

08-13867

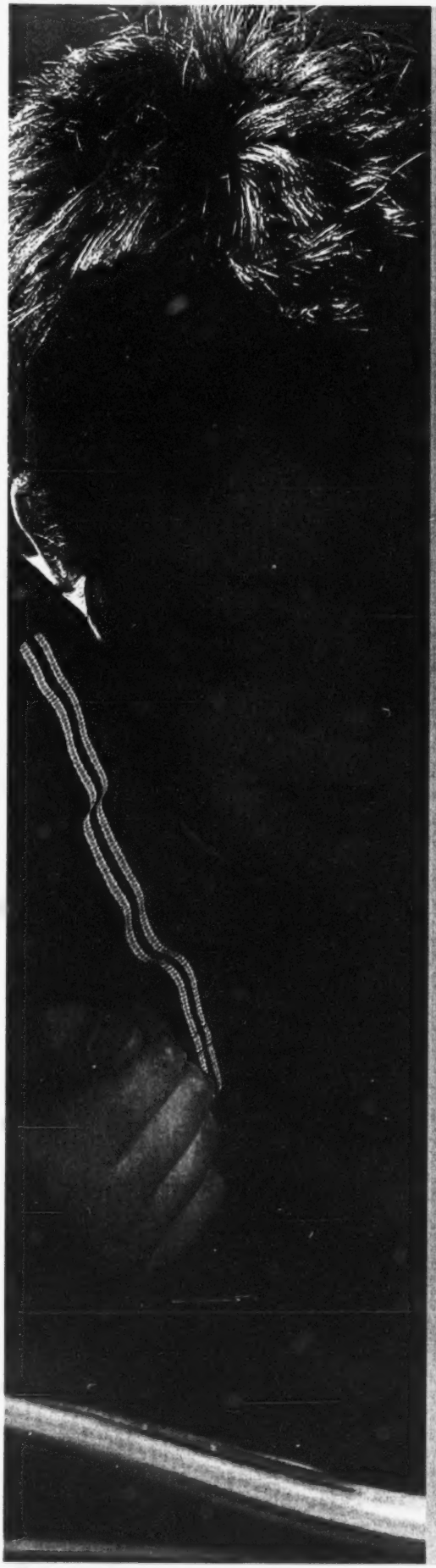
That the Ministry of Social Services review the documented changes put in place in response to this critical injury and report to the Children's Advocate Office on the success of these changes.

08-13879

That the Ministry of Social Services establish Cardio-Pulmonary Resuscitation training as a mandatory training for foster parents and cover the costs of this training.

* All names have been changed to maintain confidentiality.

Public Education



Public Education

Among the authority and responsibilities granted to the Children's Advocate Office by *The Ombudsman and Children's Advocate Act* is the legislated mandate to become involved in public education respecting the interests and well-being of children. To help meet this responsibility, the Office established a full-time Director of Public Education and Communications position in 2008 to work with the Children's Advocate and Children's Advocate Office staff to develop and implement a strategic public education plan.

At the forefront of the Children's Advocate Office's public education program are renewed efforts to **raise awareness** of the Office's advocacy services for children and youth, and to engage youth in the activities of the Office in order to inform the perspectives of the Office staff on issues affecting such youth.

Additionally, the Office has placed priority on **providing education** to professionals employed by child-serving ministries on the human rights of children and youth receiving government services under the United Nations *Convention on the Rights of the Child*. It is important for such education to occur because:

- Canada and its provinces are legally obligated to progressively implement the *Convention*, and that includes the obligation of ensuring that those who work with and for children are aware of it.
- Knowledge of the *Convention* provides a very effective tool and framework for problem solving and program evaluation, and helps debunk the myths that rights are 'freedoms' or 'privileges' rather than fundamental human 'entitlements.'
- Rights-based approaches to protecting children are different from — and generally more effective than — traditional needs-based or paternalistic approaches.
- When adults model and respect children's rights, children become more respectful of each other and of adults; and they become empowered agents in the protection of their own rights, as well as those of their peers.
- An understanding of children's rights, as set out in the *Convention*, is even more important in Saskatchewan, where there are no codified rights and entitlements set out in provincial child welfare legislation.

Youth Voice and Engagement

One of the eight *Children and Youth First* Principles, which guide the work of the Children's Advocate Office and have been adopted by the Government of Saskatchewan upon the recommendation of the Children's Advocate, is that all children and youth in Saskatchewan are entitled to be heard. This principle is based on Article 12 of the United Nations *Convention on the Rights of the Child*, which states that young people should be free to voice their opinions and have a say in matters that affect them.

In theory this would appear to be a simple right to respect, but in reality many organizations — particularly government ministries and agencies — struggle to have youth voice heard in a meaningful and respectful manner.

The Children's Advocate Office has worked with youth to develop strategies and opportunities to engage their voice in the work of the Office. Recently, we have focused the energy of advocacy to create strong linkages with established youth programs and organizations throughout the province and country. Most notably among these partnerships is the Office's continuing work with and support of the Saskatchewan Youth in Care and Custody Network (SYICCN).

Saskatchewan Youth in Care and Custody Network

The SYICCN is a not-for-profit, community-based organization that advocates for and supports youth between the ages of 14 and 24, who are in, or have resided in, the child welfare or young offender systems in Saskatchewan. The purpose of the organization is to assist youth who are currently or were formerly in government care to have a voice in their lives and to provide consultation and advice to the Government of Saskatchewan and its child-serving ministries in an effort to improve the programming and services provided to children and youth.

National Child Day

The Children's Advocate Office is privileged to participate with the SYICCN, which is a "for youth by youth" organization, by providing adult support for local networks, as well as support to the SYICCN Board of Directors as a sitting ex-officio member. SYICCN members participate in periodic focus groups conducted by the Children's Advocate Office on specific issues, and the Office has also enlisted representation from the SYICCN to sit as a member of the CAO Multi-Disciplinary Advisory Team, which provides a valuable experiential voice on child death and critical injury investigations completed by the Office's investigation team.

Every year, November 20th is National Child Day around the world. Proclaimed by the Government of Canada in 1993, it celebrates two historic events for children — the adoption of the United Nations *Declaration on the Rights of the Child* in 1959 and the United Nations *Convention on the Rights of the Child*, adopted by the United Nations General Assembly on November 20, 1989.

The United Nations *Convention on the Rights of the Child* was ratified by the Canadian Government on December 13, 1991. Two days earlier, on December 11, 1991, the Saskatchewan Legislature confirmed its support, with the Provincial Government stating:

> *"Support for the Convention is essential because it reaffirms our responsibility for the care and well-being of all children in our society. The Convention also serves as a reminder that as long as there are still children in this province who are not receiving the care and protection to which they are entitled, there is more which must be done."*

The Children's Advocate issued an op/ed article that was adapted and published in The StarPhoenix in Saskatoon and the Regina Leader-Post on National Child Day in 2008.

National Child Day op/ed

Following is the viewpoint of the writer, Marvin M. Bernstein, the Saskatchewan Children's Advocate.

With the recent celebration of another anniversary of the adoption of the United Nations *Convention on the Rights of the Child*, it is important to reflect on two outstanding concerns: child poverty and the plight of Aboriginal children. All of us have a responsibility to work towards improving these unfortunate circumstances. Everyday, many of the children and youth of our province are denied the universal rights contained in this fundamental document.

In 1989, the House of Commons unanimously resolved to eliminate child poverty in Canada. Nonetheless 19 years later, there are still too many children living in poverty across the country. At 11.7 per cent, the national child poverty rate is exactly the same as it was in 1989. In Saskatchewan, 12.9 per cent of our children live below the poverty line. Of all Canadian provinces, only British Columbia and Manitoba have higher levels of child poverty. The situation is even more serious for Aboriginal children, where the national poverty rate stands at approximately 40 per cent, with the Saskatchewan poverty rate hovering at approximately 50 per cent. In other words, Aboriginal children in Saskatchewan experience a ratio of poverty almost four times greater than the general child and youth population.

On February 14, 2008, I had the distinct honour of addressing the Chiefs of the Federation of Saskatchewan Indian Nations' Legislative Assembly, where I called upon the provincial government to take four action steps in response to the two tragic sibling deaths at Yellow Quill First Nation. I would renew that call to action some nine months later.

On a national scale, on June 11, 2008, Prime Minister Stephen Harper read an historic apology from the Government of Canada to residential school survivors that said in part, "To the approximately 80,000 living former students, and all family members and communities, the Government of Canada now recognizes that it was wrong to forcibly remove children from their homes and we apologize for having done this. We now recognize that it was wrong to separate children from rich and vibrant cultures and traditions, that it created a void in many lives and communities, and we apologize for having done this."

As this tragic period of Canadian history is finally being acknowledged and addressed by our federal leaders, there are many lessons to be learned from these past events and experiences that could inform current attitudes, policies, practices and legislation that marginalize or harm children and youth in Saskatchewan. Among the approximate 4,500 children in the care of the Saskatchewan Government or First Nations child and family service agencies, there is a significant over-representation of Aboriginal children. While 15 per cent of the total Saskatchewan population is Aboriginal, a staggering 80 per cent of children coming into care are of Aboriginal background, with approximately 75 per cent of these children being of First Nations descent. This is one of the highest rates in the country and compares unfavourably with the national average of Aboriginal children in care, which has been estimated at a still disproportionate 38 per cent.

The root causes of why and how so many Aboriginal children are in care are complex and require application of historical and contemporary contexts. However, to even begin that analysis, we must first acknowledge that this and other children's issues exist; that social injustice is not a thing of the past; and that every day certain rights of children are breached in our province.

Today, I call on the province of Saskatchewan to embrace and promote a comprehensive and child-centred "children's agenda" that would respect the rights of children in the same light as those afforded groups such as women, First Nations peoples and the disabled, all of whom have demanded that they be treated with respect and dignity, and that their voices be heard. We need to move away from the idea that children are property or objects of protection, and begin to view them as rights-holders and full members of our society.

As we enjoy a new prosperity in our province, built upon the abundance of "economic resources," it would benefit all of us to consider one very special and precious "human resource" that could sustain this success into future generations: the children and youth of Saskatchewan. Now is the time to invest in them. Saskatchewan will be a much better place for all of us if we do.

Connecting with Communities

Children's Advocate Office staff members take every opportunity to travel throughout the province and connect with communities, since doing so enhances the work of the Office. The advocates work on a regional basis to deliver information on the services of the Office and the rights of children and youth, and in that process also receive significant feedback on the quality of service delivery by both government ministries and the Office.

First Nations Relations

Particular attention is paid by Children's Advocate Office staff to visiting First Nations communities to develop ongoing dialogue about their concerns about rights, fairness, equality and the delivery of government services to children and youth on and off-reserve. Aboriginal children and youth make up nearly 80 per cent of all children and youth in care and consequently represent a disproportionate percentage of the Office's young clients.

Additionally, the Children's Advocate Office works to strengthen its relationship with the Federation of Saskatchewan Indian Nations through meetings to discuss and share information and perspectives on key issues in child welfare.

Saskatchewan Foster Families Association

The Saskatchewan Foster Families Association (SFFA) represents some of the most important and unsung heroes of the child welfare system — the foster parents who open their homes to vulnerable children and youth in the province. The Children's Advocate Office regularly meets with the SFFA to receive feedback on issues affecting children and youth in foster care and to support the work of foster parents.

Connecting Across Canada

The Children's Advocate Office connects with professionals in other provincial advocate offices across Canada to discuss and share information and strategies on issues that impact children and youth. This may be done on an informal basis through one-to-one contact between staff members or on a more formal basis as a partner in the Canadian Council of Provincial Child and Youth Advocates (CCPCYA).

Canadian Council of Provincial Child and Youth Advocates

The CCPCYA is an alliance of provincially appointed advocates for children from the provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Ontario and Saskatchewan, as well as the Youth Services Section of the Nova Scotia Office of the Ombudsman and the Québec Commission des droits de la personne et des droits de la jeunesse.

The Council member offices work to ensure that children and youth rights are respected and valued, and that their interests and voice, regarding services delivered to children and youth by provincial governments, are heard. Additionally, they engage in rights-based public education, work to resolve disputes, conduct independent reviews, and recommend improvements regarding programs for children and youth.

The CCPCYA's work is based on its commitment to uphold the rights proclaimed in the United Nations *Convention on the Rights of the Child*. Although mandates differ provincially, Council members share a common commitment to further the voice, rights and dignity of children and youth.

Throughout 2008, the Children's Advocate Office worked on plans to host the Council's conference in September 2009. During this event, held every two years, provincial representatives and staff from across Canada hear from guest speakers, experience presentations made by current and former youth in care, and hold meetings to share and discuss current issues, strategies, and resources related to the work of their offices.

Presentations and Speaking Engagements in 2008

As part of its public education mandate, representatives from the Children's Advocate Office provide presentations and speeches to diverse audiences across the province and Canada each year. In 2008, these included the following:

Conferences and Public Presentations

- Canadian Bar Association Pre-Training Session, Regina
- Canadian Bar Association National Pro Bono Conference, Vancouver
- Child and Youth Friendly Luncheon, National Child Day
- Child Welfare League of Canada Atlantic Canada Child Welfare Forum, Moncton
- Health, Social and Urban Development Conference, Saskatoon
- Justice Restorative Program Workshop, Prince Albert
- Communities for Action Community Forum, Saskatoon
- Legislative Assembly of First Nations, Saskatoon
- Legislative Interns Orientation, Saskatchewan Legislature, Regina
- Pediatric Grandparents, Royal University Hospital, Saskatoon
- Saskatchewan First Nations Health and Well-being MOU Signing Ceremony, Fort Qu'Appelle
- *Youth Criminal Justice Act* (Canada) Roundtable, Regina

Presentations to Children and Youth in Care or Custody

- Dale's House (2)
- Paul Dojack Youth Centre (6)
- Ranch Ehrlo Society
- Prince Albert Youth Residence (2)
- Echo Valley Youth Camp (3)
- Four Directions (4)
- Sundance Home (2)
- Orcadia Youth Residence
- Grace Haven/Gemma House Group Homes (2)
- Keeseekoose First Nation Group Home
- Leading Thunderbird Lodge
- Cote First Nation Group Home (2)
- Kilburn Hall (2)
- Red Willow (3)
- Open Door Community Success Home (2)

Presentations to Government or Delegated Agency Staff and/or Board Members

Ministry of Social Services

- Core Training, Family Centred Services, North Battleford
- Core Training, Family Centred Services, Prince Albert
- Core Training, Family Centred Services, Saskatoon (2)
- Core Training, Family Centred Services, Regina (3)
- Presentation, Area Service Managers, Saskatoon
- Presentation, Child Protection Services, Saskatoon
- Presentation, Family Centred Services, Melfort
- Presentation, Family Centred Services, North Battleford
- Presentation, Long-Term Resource Unit, Prince Albert
- CBO Community Forum, Saskatoon

Ministry of Corrections, Public Safety and Policing

- Prince Albert Youth Residence
- Paul Dojack Youth Centre (3)
- Ranch Ehrlo Society
- Ranch Ehrlo Buckland Centre
- Ranch Ehrlo Matheson House
- Orcadia Youth Residence
- Yarrow Youth Farm

Ministry of Health

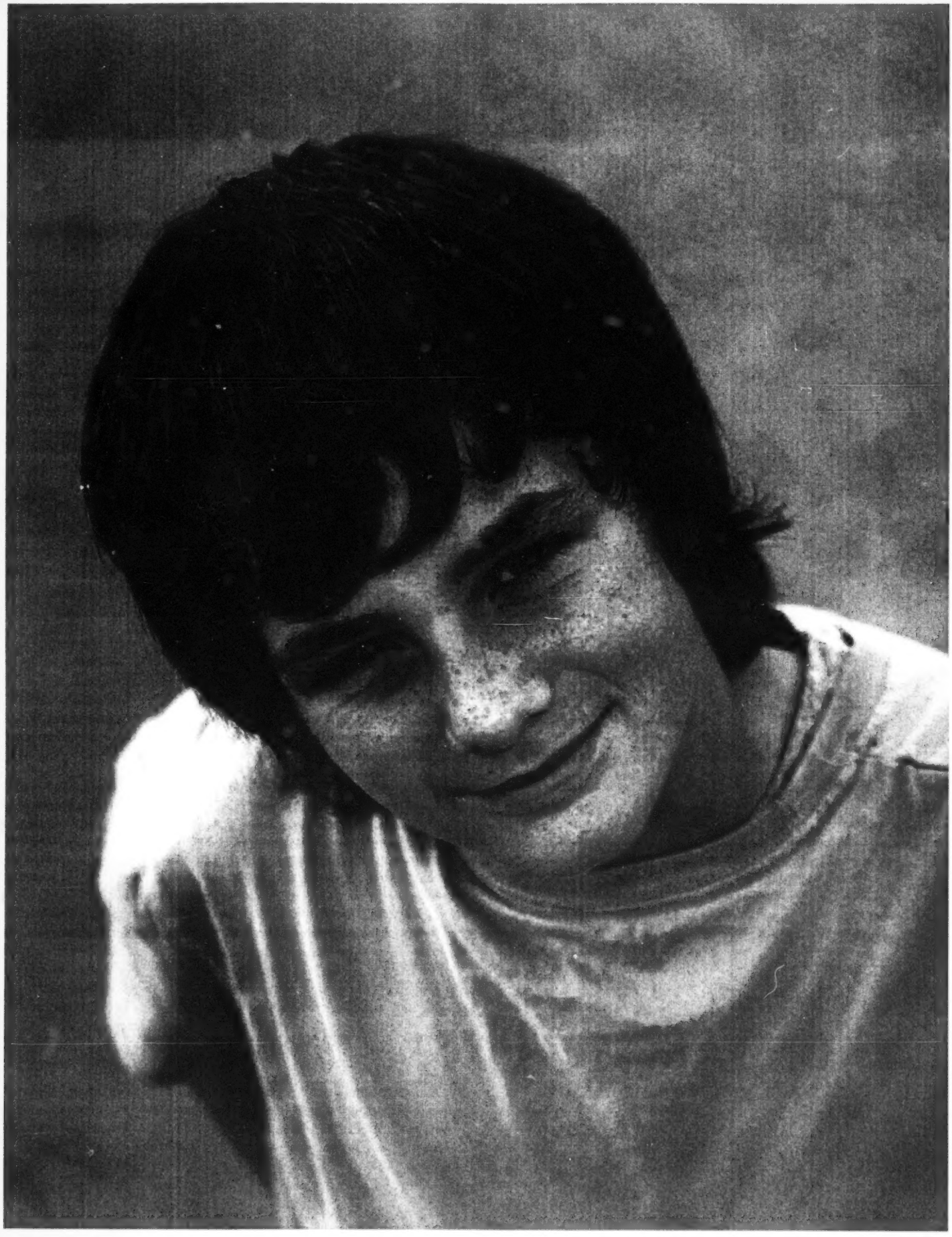
- Royal University Hospital, Saskatoon Health Region
- YDDSA Detoxification Unit
- Addiction Outreach Services, Mental Health
- Crean and Kingsmere Villa

First Nations Child and Family Services Agencies

- Four Directions, Yorkton Tribal Council (2)
- Keeseekoose First Nation Group Home, Yorkton Tribal Council (2)
- Sundance Home, Prince Albert Native Coordinating Council
- Onion Lake Child and Youth Care Group Home, Onion Lake Family Services
- Prince Albert Children's Haven, Prince Albert Native Coordinating Council

Community Based

- Autism Society
- Grace Haven/Gemma House Group Homes, Salvation Army
- Gammin Abet Group Home, Salvation Army
- KidsFirst
- Saskatchewan Youth in Care and Custody Network
- Foster Families of Saskatchewan
- Core Neighbourhood Youth Co-op, Saskatoon



Administration

The Children's Advocate Office is headquartered in Saskatoon; however, the Office's advocacy, investigation and public education services and programs are delivered throughout the province of Saskatchewan.

Children's Advocate Staff

As at December 31, 2008

Children's Advocate
Marvin Bernstein

Director of Investigations
Marcel St.Onge

Investigators
Leah Bitternose (Term)
Roxane Schury
Vanesa Vanstone

Director of Advocacy
John Brand

Advocates
Rhonda Johannson
Shaun Soonias
Elaine Thomas

Early Resolution Advocate
Chandra LePoudre

Director of Public Education and Communications
Laura Beard

Director of Administration
Bernie Rodier

Executive Administrative Assistant
Caroline Sookocheff

Administrative Assistants
Sandi Elliott
Penny Fairburn
Jennifer Kovar (Term)

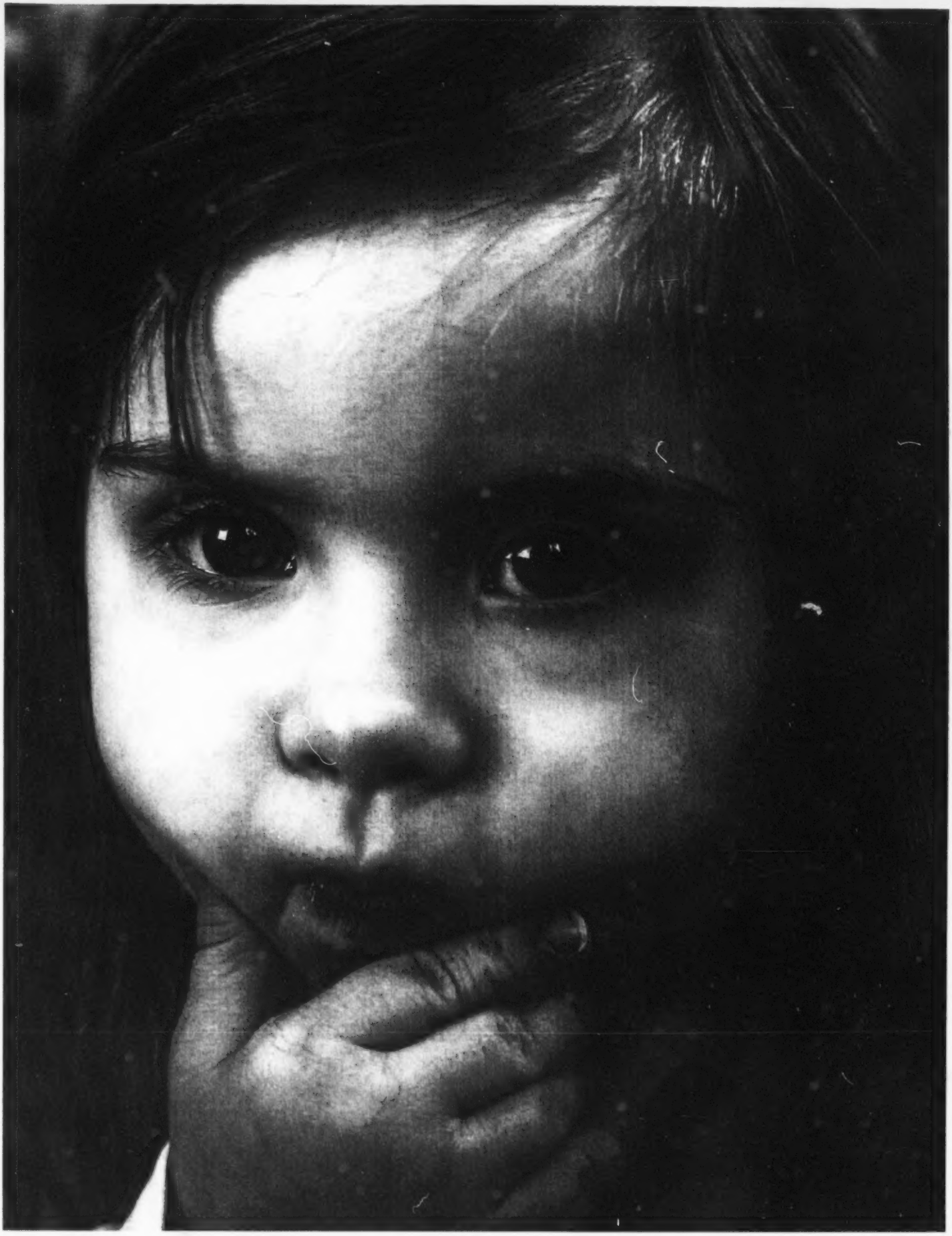
General Counsel
Gord Mayer (Provincial Ombudsman and Children's Advocate Office)

Annual Operating Budget

The Children's Advocate Office's annual budget is developed to support the Office's mandate, strategic plan, programs and services. The expenditure estimates are prepared based on guidelines provided by the Legislative Assembly Office, which are consistent with direction provided by the Ministry of Finance to government ministries.

The Office's annual budget proposal is prepared by the management team and presented by the Children's Advocate to the provincial Board of Internal Economy. Budget allocations are subsequently determined and approved by the Board.

	2006-07	2007-08	2008-09
Budgetary Expenditures			
Personal Services	$832,000	$1,000,000	$1,068,000
Contractual Services	$154,000	$154,000	$157,000
Advertising, Printing & Publishing	$32,000	$32,000	$32,000
Travel & Business	$88,000	$85,000	$85,000
Supplies & Services	$7,000	$7,000	$7,000
Capital Assets	$12,000	$12,000	$12,000
Special Warrant	–	$200,000	–
One-time Funding	$16,000	–	–
Budgetary Total	$1,141,000	$1,490,000	$1,361,000
Statutory Expenditures			
Personal Services	$154,000	$160,000	$170,000
Statutory Total	$154,000	$160,000	$170,000
TOTAL	$1,295,000	$1,650,000	$1,531,000



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SASKATCHEWAN
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A Voice for Youth